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IN THE MATTER of the Public Inquiries Act,
R.S.A. 1970, c. 26 and amendments thereto

AND IN THE MATTER of the Public Inquiry by
A.M. Harradence, Q.C., pursuant to Order in
Council 1295/73 dated August 21, 1973 into
the alleged use of excessive force by
Correctional Officers upon inmates of the
Calgary Correctional Institution during the
evening of July 17, 1973 and any other
similar instances.

PUBLIC INQUIRY

Proceedings taken in the Club Room at the
Jubilee Auditorium, Calgary, Alberta, com-
mencing on the 1st day of October A.D. 1973 .

Volume 3

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MR. PEACOCK: Mr. Commissioner, we will start off where we finished. I just finished the questioning of Daniel Winters and I would like to recall his, please.

DANIEL JAMES WINTERS, still

under his former oath, examined by Mr. Peacock, testified as follows:

MR. PEACOCK: I believe Mr. Stilwell is about to cross-examine.

MR. STILLWELL: I have no questions.

THE COMMISSIONER: Mr. Harris?

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, you indicated that at some point while you were in the store you stopped yelling?

A Yes.

PROCEEDINGS ON OCTOBER THE 4TH 1973 AT 10:00 A.M.:

MR. PEACOCK: Mr. Commissioner, having agreed to convene at ten o'clock to assist Mr. Macdonald and Mr. Scott, they are not here yet. I think perhaps if we can adjourn briefly I will go out and make inquiries where they are.

THE COMMISSIONER: Certainly, Mr. Peacock, we can't commence without counsel for the inmates present.

(Proceedings adjourned)

MR. PEACOCK: Mr. Commissioner, we will start off where we finished. I just finished the questioning of Daniel Winters and I would like to recall him, please.

DANIEL JAMES WINTERS, still under his former oath, examined by Mr. Peacock, testified as follows:

MR. PEACOCK: I believe Mr. Stilwell is about to cross-examine.

MR. STILWELL: I have no questions.

THE COMMISSIONER: Mr. Meurin?

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, you indicated that at some point while you were in the dorm you stopped yelling?

A Yes.

Q Is that because you felt you had gone about as far as you dared?

A Yes.

Q Were there weapons in the west wing that night?

A None that I know.

Q Had there been rumours circulating that there were some present?

A Yes.

Q Would you say that the mood of the whole thing just before you were removed was getting rather ugly?

A Well, no.

Q Now am I correct in stating that Sims went out of the dorm into the hallway before you did?

A Yes, I think so, yes.

Q And I believe it was Spooner and Watson were ahead of you?

A Yes.

Q And you were some distance up the hall - -

A Yes.

Q - - when you supposedly saw Sims being struck?

A Yes.

Q Wasn't Sims saying something to the effect that I'm moving, I'm moving?

A Yes.

Q If you had passed him I guess he wasn't exactly moving down the hall, was he?

A When I got outside the door I couldn't stop.

Q Did you hear him shout anything?

A You mean inside the hall, or - -

Q Yes.

A I suppose leave me alone, he says, okay, okay, I'm moving.

Q You didn't hear him shout any obscenities?

A No, none that I can remember.

Q Was Sims laughing at this whole incident?

A No.

Q Was there laughter as you people went down the hall?

A No.

Q You laughed after you were struck?

A Yes. I was still near the guard's cubicle, outside the door.

Q This hitting that you spoke of that you received, was this just sort of in the nature of prodding you along?

A I don't understand you.

Q Was he just using the billy stick or whatever it was to prod you along, to get you moving?

A For me, yes, but the other guys, I don't know.

MR. MEURIN: I have no further questions, Commissioner.

CROSS-EXAMINATION BY MR. MACDONALD:

Q Mr. Winters, you indicated that the blows that you received outside the guard's cubicle were not par-

particularly strenuous blows that you received, is that right?

A Yes.

Q You didn't require medical attention for them?

A No.

Q Did they have any effect on you at all?

A No, none whatever.

Q In the morning did you have any kind of a mark left on your arm?

A It was a bit red.

Q Was your arm sore?

A No, not really. It was sore, but I could still move it.

Q It certainly wasn't broken?

A No.

Q Why were you struck, do you have any idea?

A No, I don't.

Q Were you standing outside the guard's cubicle at that time?

A Yes.

Q Was everybody else standing there?

A Yes.

Q And what was going on, what were the guards doing?

A They were just waiting for the rest of the guards to come out. I didn't look back to see what was going on.

Q Waiting for the rest of the guards to come out?

the rest - well, there was one other, another guard came out, I can't remember who it was.

Q Any particular reason why you laughed at this time?

A I thought it was a joke.

Q As you moved down the hallway did you resist movement towards the Detention Centre?

A No.

Q Did you notice anybody else resisting?

A No.

Q Do you know of any reason why Sims was stopped?

A No.

Q Were you supposed to run to the Detention Cells?

A No, just - just keep moving.

Q When you got down to the Detention Cells were you pushed, kicked or shoved in any way?

A No, just said get in the cell, that's all.

Q And take your clothes off?

A We took them off before we went in.

Q Do you think this banging and shouting would have gone on all night?

A No, I think the people around there were getting tired of it, anyway. They were just yelling put the lights on, or something, and they were just getting sick of it, there was no point keeping it on. Most of them seemed to forget it.

MR. MACDONALD: Thank you. Nothing further.

MR. STILWELL: Mr. Commissioner, may I ask

two more questions? Three, actually.

EXAMINATION BY MR. STIMMEL:

Q You are now aware on the same night there was an incident in the cell block where four inmates had to be taken to the hospital, are you?

A Yes.

Q Did you know about it at that time?

A No. I heard about it the next morning.

Q Did anybody in the west wing know about it at that time?

A I don't know if there was of my own knowledge.

Q The other question I wish to ask you is it is your evidence, is it, that it was Merriam who struck Sims and then you?

A Yes.

MR. PEACOCK: I have one further question.

EXAMINATION BY MR. PEACOCK:

Q I believe you indicated yesterday, Mr. Winters, that you were involved in hollering and the locker banging for a while?

A Yes.

Q Why were you doing it?

A I figured if I didn't somebody would say I was a jammer, or I was too chicken to do it.

Q You were involved because the other boys were doing

A Right.

Q Did you expect to accomplish anything by banging and yelling?

A Maybe the lights, I didn't think anything else.

MR. PEACOCK: Those are all the questions I have, thank you. Call Robert Sims, please.

ROBERT EARL SIMS, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Sir, you are Robert Earl Sims?

A Yes.

Q How old are you?

A Seventeen.

Q Where are you residing?

A Calgary Correctional Institution.

Q How long have you been there?

A Since January 31st.

Q How long is your sentence?

A Twenty-one months.

Q What charge are you in for at the present time?

A Five B and E's, threatening to kill forcibly, possession of dangerous weapons and escaping.

Q For this you were sentenced to twenty-one months?

A Yes.

Q You have been in since January?

Q I take it you were in the institution on July 17th?

A Yes.

Q Where were you housed at that time?

A I was in the hole, the Detention Cells.

Q Were you in the Detention Cells for the whole day of July 17th?

A No, just for the beginning, and then I was in the north wing.

Q I see. Did you ever get into the west wing?

A Yes, July 16th.

Q You were in the west wing on July 16th and you were put in the hole then?

A That night, July 16th.

Q It is your evidence you were in the west wing on the night of July 16th?

A I believe so, yes.

Q Could it have been the 17th?

A It could have been, but I think it was the 16th.

Q Your recollection is on July 16th 1973 you were housed in the west wing that night?

A Yes.

Q And is that the night that a commotion started because of the radio and lights?

A Yes.

Q It could have been the 17th, but you think it was the 16th?

A I think it was the 16th.

Q All right. Now what bed were you in?

A 36.

Q And who was beside you?

A Which side?

Q No. 35?

A Dan Winters.

Q And 37?

A It was empty.

Q And 38?

A Oh, 37? Oh, yes, 35 was empty and 37 had Danny Winters.

Q And who was next to Winters?

A Gary Spooner.

Q And who was next to Spooner?

A Don Madsen.

Q And who was next to Madsen?

A Jack Watson.

Q All right. Can you tell me what happened when this commotion started?

A The lights went off, the TV stopped and the radio went off at ten o'clock and, well, they just went off, just like that, suddenly, you know, no warning, or anything. We started yelling and screaming for the lights and radio to come back on.

Q What time to your knowledge were the lights supposed to go off that night?

A Ten o'clock.

Q So notwithstanding they went off, had there been previous warnings that the radio and lights were going to be turned off?

A They usually turned off one side before, a warning so you could get your cigarettes, and everything.

Q And when that happened, everything went off at ten o'clock, did you start yelling and hollering as well?

A Yes.

Q And was this a general yelling and hollering amongst the inmates in the west wing?

A To my knowledge everybody was doing it.

Q What were you yelling?

A Profanities and just - we were shouting for the radio to be turned on and the lights turned back on and yelling profanities at the guards.

Q All right. How long did you continue with this yelling before something happened?

A I would say about 45 minutes and then one of the guards came in - two of the guards.

Q Other than yelling was there anybody making any noise?

A We were banging on the lockers with our boots and stuff like that.

Q Were things being thrown as well?

A I think a couple of cups were thrown, yes.

Q And finally a guard came. You said this lasted about

45 minutes?

A Roughly, yes.

Q Then a guard came in?

A There were two guards. I only saw one. There's two sides to the west wing and one of them walked down each side and I couldn't see behind me.

Q Who walked down your side?

A Mr. Coljee.

Q What happened when he came in?

A We started yelling things at him.

Q What were you yelling?

A Profanities.

Q What were the profanities?

THE COMMISSIONER. Go ahead.

A Coljee sucks cocks and Coljee is a cocksucker and stuff like this.

Q And was everybody yelling at him as he was going down the aisle between the beds?

A Right, as soon as he passed your bed and wasn't looking you started yelling.

Q I see, and he went down the aisle to the end, did he?

A Yes.

Q Did he do anything? Did he reply to any of these comments?

A He didn't say anything, but when he got down to Dan's bed, I think it was No. 20 or 21, he snapped his fingers and pointed at him and then he walked down and

and he yelled and clapped his fingers and pointed at me and the rest of us who got reprimanded.

Q Did he say anything to you? Did he say anything or did he just have his finger pointed at you?

A Just pointed.

Q And he pointed at you?

A Yes.

Q And Winters and Watson?

A Yes, Spooner first and then Watson.

Q Then Spooner and Watson. While he was pointing was the yelling of obscenities at him still going on?

A From what I know, yes.

Q I take it when he was pointing at these other fellows they weren't yelling obscenities at him?

A Didn't want to get caught.

Q And/did he go back up towards the cubicle?
then

A He was walking towards the cubicle.

Q And when he got up to the door what happened?

A Then he just stood around with the other guy and just watched to see what was happening.

Q Was the yelling and banging on lockers still going on?

A Oh, yes.

Q What happened then?

A He went out and then we kept it up for a while. The lights came on for about 5 minutes so me and a couple of the other guys, I can't remember the other guys'

names, we went and we had one hand of bridge. We went to bed and then Mr. Lynch came, another guard.

Q You say you got up and went down to play cards when the lights came on?

A Right.

Q The lights went out and you went back to bed. Did you actually get into bed?

A Yes, I did.

Q Was the banging on the lockers and hollering still going on?

A All the time.

Q Okay, and then Mr. Lynch came down?

A Yes.

Q Did he go down the aisle?

A The same aisle except that he stopped and went over to me and Winters' beds and he was looking over the partition there, and he was just standing and we weren't doing anything, sort of pretending to be asleep, and then he went out and walked down the aisle some more.

Q And were any particular names yelled at Lynch?

A There was only one thing yelled at him.

Q What was that?

A Lynch's old lady was stolen by Indians, just yelled out loud.

Q That was the only thing that was hurled in his direction?

A That's all I saw.

Q While they were yelling and banging on the lockers continued what did Mr. Lynch do?

A Pardon me, Mr. Lynch was the one who snapped and pointed his finger.. Mr. Coljee didn't do anything, he just walked.

Q So it was when Lynch made his tour of the ward, he was the one who snapped his fingers and pointed at the four of you?

A There was four of us, I think there was only four of us that got taken out.

Q He also pointed at Dan Winters?

A Right.

Q He had been involved in the banging on the lockers and yelling as well?

A I didn't see him, but probably.

Q And Winters and Watson and Spooner were?

A Yes. Spooner I couldn't say so much because he had a lot of heat on him and the guards were watching him pretty well.

Q Was the heat on him because of things he had done before?

A Yes, they were just trying the heat on him.

Q And then what happened?

A We got up for a while and then I saw a bunch of guards group around the gate by the cubicle, so I said to Winters looks like something's going to happen, and he

said holy Jesus, he said, keep it cool. We kept it cool for a while they were watching us.

Q When you say you kept it cool, what about the banging on the lockers and the yelling?

A I didn't do it then, but it was still going on, yes.

Q What happened when this group of guards was assembled by the cubicle?

A It's hard to see what they were doing.

Q But the yelling and banging was still going on?

A Yes.

Q Then what happened

A They opened the gate and I yelled you cross that line and you're dead. I wasn't serious, or anything, but that's just what I yelled out.

Q You hollered that at the guards when the gate opened?

A Yes.

Q Did they cross the line?

A Oh, yes.

Q What happened?

A They walked down and they sort of spread out and Mr. Cater had a gun, and he said anyone moves on this side they're going to get it, and so no one moved, and they started walking down our side. Mr. Uitbeyerse and another guard grabbed Jack Watson and then a guard grabbed Spooner.

Q Before we get away from that, did you see Mr. Cater at this time and ultimately with a gun?

A Right.

Q Would you take a look in the box, and I believe at Exhibit No. 38 and would you advise the Inquiry if that is the gun or type^{of}/gun that Mr. Cater was holding that night?

A Of that type, yes.

Q Do you say that looks like the gun he had?

A Yes.

Q So you saw Mr. Uitbeyerse take Watson out of bed. Did he do anything to Watson at that time?

A He handcuffed him.

Q Did he handcuff him with his hands behind him or in front of him, do you recall?

A In front of him.

Q And they also got Winters out of bed and Spooner out of bed?

A Sort of in quick succession.

Q Then they got you?

A Then they got me.

Q Who was at your bed, that you recall?

A Mr. Schlegel was the only one I recall.

Q And what happened?

A They came over to my bed and I was lying down with the covers up to my neck and sort of tucked in and he said - didn't say anything, he hit me twice with the billy club and/said get out of bed so I started

to try and get out of bed, but he was standing on the side where it was untucked, and the other side was tucked in really good, so I was trying to get out the other side and he was hitting me and I was trying to protect myself like this.

Q When he first approached you you were lying on your back, were you?

A Yes.

Q Did he hit you when you were lying on your back?

A Yes.

Q What did he hit you with?

A A billy club.

MR. PEACOCK: Perhaps, Mr. Clerk, you can show him the box and ask Mr. Sims if he can identify the type of club that Mr. Schlegel had on that occasion.

A I can't say. It wasn't as big as this one, but it was sort of - it wasn't hard.

Q Do you have any idea what it was made of?

A It felt like rubber.

Q What colour was it?

A The same colour as the one that - -

Q You can't identify it from the box of exhibits?

A No.

Q That is exactly what kind of club it was?

A I wasn't paying attention to the club. I was paying attention to getting out of bed.

Q Where were you hit when you were lying down?

A Back here on the shoulder and side of the neck.

Q Were you struck hard?

A Fairly, yes. I had bruises the next day.

Q Did you have bruises there out of the striking?

A It was all sort of married together. I am not really sure, but it hurt enough to be a bruise.

Q You were hit and you then endeavoured to get out of bed?

A Yes.

Q You were trying to get out on the side with the untucked cover?

A No, with the tucked cover.

Q I see, because he was standing at the untucked side?

A Right.

Q And you say he then struck you again?

A He was hitting me repeatedly while I was trying to get out of bed, and when I managed to get out of bed - -

Q How many times did he hit you while you were trying to get out of bed?

A Ten to fifteen or so.

Q I see, and did you say anything to him as you were getting out of bed?

A No.

Q Did he say anything to you?

A Yes.

Q What was said to you at that time?

A God damn cocksucker.

Q That was what Mr. Schlegel said to you, and did he tell you where to go?

A I knew where to go.

Q Where was that?

A The hole.

Q How did you know that's where you were supposed to go?

A Well, just common knowledge. I don't know why, just no other place where I could have gone.

Q I see, so you knew you were going to the hole, and when you started up to the front did you get to the door before anything/^{else} occurred?

A Yes, when we got just outside by the cubicle Mr. Schlegel grabbed Winters and hit him five or six times.

Q Was he facing him or behind him?

A Behind him.

Q And was he giving him some pretty hefty blows?

A Very hefty.

Q He was swinging pretty hard at him, was he?

A Yes.

Q Was Winters saying anything to him?

A Not that I recall.

Q Did you see Winters laugh at him after he hit him?

A No.

Q But you saw Mr. Schlegel hit him some fairly severe blows. Would it be as hard as those you were struck with when you were trying to get out of bed?

A I would say they were, because they were landing where he wanted them.

Q All right, and then did Winters say anything to Mr. Schlegel at this time?

A Not that I know of.

Q Did Schlegel say anything to Winters when he was hitting him?

A I wasn't within earshot. I don't think so.

Q Where were you standing with relation to them?

A I was just outside in the hall.

Q Was Winters still in the dorm?

A He was right beside the cubicle, right beside the door of the West Wing.

Q Had you not gotten out of the West Wing when you saw it, or were you still in the hallway?

A I was still in the hallway.

Q So you were looking back. What happened then?

A He let him go and he started walking down the hall, towards the hall, and Schlegel came up to me and grabbed me and pushed me up against the wall and hit me two or three times on the back, and then I squirmed and I yelled at him something to the effect leave me alone, I didn't do anything.

Q All right, now this was in the corner, was it, or was

it right in the middle of the hall?

A It was between the West Wing and the first gate beside the guard room.

Q You say Mr. Schlegel put you up against the wall?

A Yes.

Q Were you facing him or had you your back to him?

A I had my back to him.

Q Then he hit you on the back, is that right?

A Yes.

Q So at the time Mr. Schlegel was striking you in the hall you had your stomach to the wall and he was striking you on the back?

A Sort of. I wasn't right up against the wall. My shoulder was right against the wall.

Q So the place that you were struck at that time, you were struck on your back, not on the front of your body?

A Right.

Q And at that time you advised Schlegel you didn't have anything to do with it?

A Right.

Q And I take it that that wasn't completely accurate?

A No, I was just trying to get out of the beating.

Q And what did he say? Did he say anything to you?

A No.

Q You started to move, I take it?

A Yes, I started to run but he hit me twice and some-

one kicked me again.

Q Do you know who kicked you?

A I am not sure.

Q This was still between the gate to the West Wing and the cubicle?

A Yes.

Q Where were you kicked?

A Just on my ass.

Q Was anything said when you got the kick?

A Umm hmm?

Q Was anything said to you when you were kicked?

A No.

Q So you started to trot down to the hall, did you, and Spooner and Winter and Watson were with you?

A Yes.

Q And did you get down?

A Yes, we ran all the way, and when we got to the hall we pushed the buzzer to open the door and we had to wait for the guard, and that's when they caught up to us again.

Q Who was there?

A Mr. Schlegel and Mr. Addinall.

Q Schlegel and Addinall?

A Yes.

Q Anybody else?

A There was more - I didn't see.

Q They are the only two that you can remember?

A Yes.

Q What happened when you were waiting for a guard?

A They told us to strip down, and two of us were already naked and Watson got his handcuffs taken off, and they took a mattress out of No. 1, D.C.1 Detention Cell, and after that I was hit one more time.

Q You were struck down in that area?

A I was. Mr. Schlegel was standing one side and Mr. Addinall on the other in D.C.1.

Q That was on your way into the cell?

A Yes.

Q Were you struck severely at that time?

A I was struck severely.

Q I see, and then the others followed you in, did they?

A Yes.

Q Were any of them hit on the way in?

A They were all tried to be hit, but I think Spooner was the only one who got in without being hit but I can't say, I was in front of him.

Q Did Winters get hit on the way in?

A I think so.

Q How about Watson?

A Yes.

Q And they were hit by whom?

A Mr. Schlegel.

Q And they were hit with a club, you say?

A Yes.

Q And I take it after you got in they locked the door?

A They did.

Q And they left?

A We weren't sure if they left. We just decided no talking in case they were outside listening, so we didn't say anything till we decided they were gone, must have left.

Q Did you start talking after?

A Yes.

Q Did you advise the boys, or show the other boys where you had been struck?

A I think so, by the time we started talking.

Q Had you mentioned you had been struck?

A Oh, yes, we all had.

Q I gather then you were involved in the yelling and the banging on the lockers?

A Yes.

Q And you I believe indicated that you were the one that hollered at the guards when the group of guards arrived at the gate at the West Wing that if any of them stepped in they were going to get it, or what were the words, do you recall?

A No, no, just you're going to get it, or I was going to get them.

Q Why did you get involved in this?

A Umm hum?

Q In the locker banging and yelling?

A No particular reason except everyone else was doing it. Follow the leader sort of thing.

THE COMMISSIONER: Who was the leader?

A There wasn't a leader.

THE COMMISSIONER: Who were you following?

A It was all sort of - it wasn't really following.

Q MR. PEACOCK: Everybody was doing it at the same time?

A Yes.

Q Do you know who was the first one? Did anybody suggest that you start banging on the lockers?

A No, some of us yelled right off lights up, or something like that, we just all started.

Q Do you know who the first one to yell was?

A No.

Q But you got involved and started to yell and bang on the lockers and all the rest of it?

A Yes.

Q Did you expect the guards to do anything, or did you think about it?

A I expected them, but it was a foolish move, because they would quit it after another hour or so. Everyone has to face their own, sort of thing.

Q This is a normal sort of thing?

A Yes, yes, all the time. People get to rattling the bars, and they don't do anything about it.

Q Do they ever happen to exceed the length of time that this had happened while you were there?

A While I was there?

Q Yes.

A I can't remember, but it was various times they started yelling and screaming.

Q If they were found to be yelling and screaming you saw them taken down and put in the Detention Cell?

A Yes, always put into the hole.

Q Your understanding is that when you contravene regulations you can expect if you're caught to be put into the hole?

A Right, if you start it.

Q And you were telling me just a minute ago that most of the people in the West Wing were involved. Did you get out the following morning?

A Yes.

Q And were you taken to Warden's Court?

A Yes.

Q What were you charged with?

A Causing a disturbance after lights out.

Q And did you enter a plea before the Warden?

A Yes.

Q What was your plea?

A Guilty.

Q Did you receive a sentence?

A Yes.

Q What was the sentence?

A Ten days off privileges.

Q I see. Did you report any of your injuries to the medical staff?

A No.

Q Did you ask to see the doctor with respect to any injuries you suffered that night?

A No.

Q What injuries had you suffered?

A Just bruises on my arm and shoulder over here, on the back of my shoulder and on the top of it.

Q Did you subsequently lay an information against Officer Schlegel?

A Yes, I did.

Q And when did you decide to do that?

A About two weeks after, about ten days after.

Q Was there any reason for your waiting ten days to do anything about it?

A Just figuring it out and looking at all the angles.

Q Did you talk to anybody and get advice from anybody?

A Yes.

Q Who?

A The John Howard Society and Legal Aid and Gary Spooner.

Q You consulted with three people and you decided to lay

a charge?

A Yes.

Q Are you aware of there being weapons found in the West Wing, knives, etcetera?

A No - yes.

Q Had that happened recently?

A Not recently, happened a couple of days after - not before that for quite a while.

Q At the time of July 16th or 17th are you aware there was a rumour there were weapons in the wing?

A I heard about it.

ME. PEACOCK: Those are all the questions I have.

THE COMMISSIONER: Mr. Stilwell?

CROSS-EXAMINATION BY MR. STILWELL:

Q How do you like beingⁱⁿ the West Wing?

A It's not the best place to be in.

Q Some people just don't fit into the big wings like that, am I correct?

A Yes.

Q And you were doing twenty-one months?

A Twenty-one months, yes.

Q And the others in there, what were they doing?

A Anywhere from weekends to whatever the sentence is.

Q And you find it upsetting being there, then?

A Yes.

Q Will you explain that to the Commissioner, please?

A Well, you're in gaol and you've got, say you've got a year, and there's some guy comes in and he has about three weekends, or something, and he comes in on the weekend and he says, Jesus, I got two more weekends to go and, you know, you start thinking about it and, well, you've got fifty-two more weekends to go, including the days in between, it just sometimes makes you feel bad.

Q So you're happier if you are confined more closely than being in that big wing?

A I am not particularly happy, but I would sooner have my own cell.

Q Do you like it better there?

A Oh, yes.

Q Let's talk about Mr. Schlegel for a moment. He isn't a bad guy, is he?

A I have never talked to him, but I hear he isn't a bad guy, he gives you a straight answer.

Q His reputation among the other inmates is pretty good?

A Yes.

Q Correct me if I am wrong, but I take ^{it} your attitude was, well, you had your little ruckus, you got ten days off privileges and as far as you were concerned that was just the way it goes?

A I had expected beatings in gaol, but if it was my only - well, I wasn't doing three or four years right now

so I charged him for it.

Q You didn't charge him until you talked to a lawyer?

A It was a young guy, I forget his name. I talked to Spooner, but I needed more information on how to go about it.

Q You didn't tell the Warden about it when you came up in Warden's Court?

A No, I didn't.

Q When did you come up in Warden's Court?

A The next morning.

Q Were you still hurting then?

A Oh, yes.

Q Why didn't you tell the Warden?

A Schlegel was standing there.

Q What do you mean by that?

A He was standing right in the same room in Warden's Court.

Q Yes?

A So I just didn't say anything about it.

Q You didn't bother to tell anybody?

A It was already common knowledge among the inmates.

Q In the statement that you made on September 6th, Page 2, you say this. I will read it and ask you whether you did say that.

"I wasn't hurt bad enough to go to the doctor, it just seemed to be part of the normal thing, but just after I went to

the doctor because my nose was very dry and he gave me some vaseline for it. I didn't tell him anything about getting hit because I wasn't hurt."

Is that what you said? You go on

"After thinking about it for about two weeks and talking to the guy from the John Howard Society and Gary Spooner I decided to see a lawyer about it."

Now, in fact, in fact the fellow who came down to see you was not a lawyer, was he?

A I think he was a law student.

Q From Student Legal Services?

A Right.

Q And so after discussion with Spooner and the John Howard man you decided to lay the charge. On May 29th 1973 were you convicted, I am talking about in Warden's Court, not the downtown Court, for using another man's credit card?

A Yes.

Q On June 22nd 1973 were you convicted of refusing to work?

A Yes.

Q On June the 29th 1973 were you convicted of escaping from the Institution?

A Yes.

Q Then aside from the incident of July 17th and then

again on the 19th of August 1973 you were convicted of fighting in the dining room?

A Yes.

Q I am indicating a place on my arm. Is that the place where you got hit by Mr. Schlegel?

A No.

Q You think that was the place he was trying to hit you?

A I was hit on the other side.

Q Sorry, I am indicating a place on my upper arm and shoulder, this is where you got hit?

A Yes.

Q Did Mr. Merriam drag you out of your bed?

A Not that I know of, but I did get out of bed on my own accord, I don't know if he was there.

Q As far as you know he had nothing to do with it?

A No.

Q Were you the last one taken from the West Wing of the four men who were taken?

A I was the last one to be taken out of bed, but I know I was out of the West Wing first.

Q Where were the other three?

A Spooner was talking to Merriam and Schlegel was beating Winters and I don't know where Watson was.

Q I said where were they?

A Right by the guard's cubicle.

Q Inside the wing?

A Well, sort of.

Q Inside the door that goes into the wing?

A Right.

Q They were already there?

A Yes.

Q Who took you over to these three?

A I had an escort of about twelve guards.

Q Was Schlegel one of them?

A Yes.

Q So he couldn't have been beating somebody else while he was taking you over there?

A But not until I passed Spooner and until I passed Winters going out of the wing.

Q Would you look at Exhibit 14? Is that the way you come out of the West Wing to go down the corridor?

A Yes.

Q Now the place where Schlegel was hitting you, was that right at that corner? Will you hold it up and show the Commissioner?

A I was coming down, I was going down there, the West Wing is right in the corner here.

Q Was that the only occasion on which he beat you in the hallway, or did it happen - -

A No, that was the only place in the hallway.

Q I am going to show you another photograph, and this one is No. 19. After you come around the corner you come down that corridor there?

A Yes.

Q Does that show the North Hill Flyer Office?

A Yes, it does.

Q You call it the newspaper office?

A Yes.

Q Can you show the Commissioner where that is, please?

A Right there, that's the door.

THE COMMISSIONER: To what, sir?

A Of the office.

Q MR. STILWELL: Does it show a grill gate?

A Yes.

Q On the other side of the grill gate there is the guardroom cubicle?

A Yes.

Q Would you look at No. 13 again? This picture is taken from the opposite direction. Is it the same one, looking at it from the other end?

A The other end, yes.

Q The guard's cubicle is in the foreground. Would you show the Commissioner where Winters, Watson and Spooner were when Schlegel was hitting you?

A I can show you better on the other one.

Q Okay, let's look at 19.

A I was standing right about here and they were about over here.

THE COMMISSIONER: How far would that be from you?

A 5 feet to the side and maybe 10 feet forward.

Q MR. STILWELL: Hold it up so everybody can see.

A I was standing where this line is, and the other three were by the Flyer window, the office, sort of walking that way.

Q How long have you been in this Institution under your present sentence?

A Since January 31st.

Q And did you find that the day passes stopped coming?

A Very much.

Q Would you explain that to the Commissioner, please?

A Well, before that, I think it was May or June 1st, or around there, anyway, before they were giving out passes to almost everybody, but after that they cut them off except guys that were known as crumbs.

THE COMMISSIONER: What's that again?

A That means making friends of the guards and being friends with them and sort of tipping them cigarettes and just being a good boy in the Institution.

Q MR. STILWELL: Go ahead, please.

A Well, there's only a few of those people, so a very few were getting passes, so everyone started getting more and more uptight, you can't have a pass because you have a drinking problem, and that was five years ago, and so he's been going to AA for two years in the Institution so he isn't drinking any more, but they're using that for an excuse because he's known

as a leader, but he's got lots of friends, sort of thing, and he knows the whole thing and what to do in the Institution.

Q If I understand you correctly, it is the fact that day passes had been freely available and then cut off, that was a source of complaint?

A That was one of them.

Q Did that happen to you?

A I never put in for a pass, before I was eligible I escaped.

Q What I am asking you to answer is this, that if day passes could have been available in the first place the feeling wouldn't be as strong as it is now?

A Probably not. it would have been something to look forward to, but it wasn't only that, it was the hair cuts, it was all sorts of things.

Q What about hair cuts?

A Well, April 1st I think it was, they brought in hair cuts again, and unless I was only in for 30 days I was going to have to get my hair cut like this.

Q It looks pretty good to me.

THE COMMISSIONER: It does to me, too, Mr. Stilwell, but that probably reflects your age and mine.

Q MR. STILWELL: Was this another case where the rules had been rather generous and then became more restricted?

A Yes.

Q These look like small things, but when you look at them they start getting big things?

A That's all there is.

Q And things like this contribute to the high level of tension in the wing?

A Yes.

Q And July 17th was a hot night, too, wasn't it? Was it not hot in the wing?

A Yes.

Q And did you know there were some men taken ill, they were taken to the hospital to have their stomachs pumped out?

A I didn't know, but I guess - -

MR. STILWELL: I see, your friends in the West Wing had nothing to do with it.

THE COMMISSIONER: Mr. Macdonald?

CROSS-EXAMINATION BY MR. MACDONALD:

Q Mr. Sims, is there anything else that you would like to tell the Commission that you feel creates problems with the inmates of the gaol or have you covered it?

A More in the West Wing than any other place there's a - not too much to object to, but there's the small-timers and bigtimers associated, and then you have Indians and the white people, you know, like they're

all in one wing, 90 people and there's, not prejudice, but there's conflicts, which they stick together and we stick together and they pick fights about that, things like that happen.

Q You mean that is between persons of different racial descent?

A No, not usually, because there's usually more of them at the gaol, but there's still conflicts.

Q Tension?

A Yes.

Q Is that tension because of racial differences?

A No, but each has a different way of doing things, and stuff like this.

Q You mean the mixing of people doing short time and people doing a long time and the mixing of races?

A Yes.

Q Are those the only complaints you have about the Institution?

A Well, the food, but I guess that isn't really a complaint, you can't expect to have gourmet meals when you go to gaol.

Q I will agree with that.

A Really minor things, you know, you have to live with, you can't do anything about.

Q You mentioned that Spooner was under some kind of heat. What was that for?

A I don't know what it is specifically, but you have

your sort of leader in the Institution, he had been there for 23 months, he knew everybody, but he didn't do nothing wrong, or anything, he was working in the Flyer Office, I guess you would call him a leader, but all the leaders in the West Wing weren't doing anything, like Kenneth Ramchuk and Spooner, because they knew they were all watching them.

Q When you say he was under heat are you referring to the fact he was an acknowledged leader among the inmates?

A Yes.

Q So they would be keeping an eye on him?

A I believe so, yes.

Q You're not telling us he was under any particular pressure?

A Oh, no, no pressure, just they were watching out for him to see if he was starting anything.

Q And from an inmate's viewpoint there are good guards and bad guards?

A Yes.

Q Can you explain a little bit about that?

A Well, a good guard is someone who - like a guard who doesn't give you shit, you know and doesn't give you any stuff, just takes it like it comes. There's some guards like to put you down, like to do things to you, like if you need a new cup some will say no, man, and some say sure, I'll give you one, or go get one your-

self. There's little different things.

Q You have heard the expression mind games?

A Yes.

Q Do you know what it means?

A Not in this case, but I have been on acid.

MR. MACDONALD: That's all, thank you.

THE COMMISSIONER: Mr. Meurin?

CROSS-EXAMINATION BY MR. MEURIN:

Q There was a large number of inmates in the West Wing that night, were there not?

A Yes, there always is.

Q I take it you were uptight, were you?

A Yes, I was. I was getting it from the guards and with the inmates, my escape, it didn't come off so good, so I got sort of mad and angry.

Q You weren't particularly happy because you tried to escape and blew it and you were getting a ribbing for it?

A Yes, all the time.

Q Instead of effecting your escape you have got to do your time consecutively, haven't you?

A Yes, it isn't only three months you lose, you lose good time, too.

Q Now did I hear you correctly before when you said that you felt that Winters was being hit as hard as you?

A Yes.

Q Sir, there has been evidence in this Inquiry to the effect that when Winters was hit he left?

A Pain doesn't always make you cry.

Q You're telling us you laugh?

A No, I never laugh.

Q When you were moving up the hall to the North Wing did you tell Schlegel to fuck off?

A No.

Q But you didn't say anything that wasn't really true at that time?

A No, it wasn't. I mean it's true, that's what I said.

Q It's true what you said, that the first statement was not true, is that correct?

A Yes, right. I wasn't taking anything personally, I was trying to decide why I was picked out of 96 guys with three others.

Q Did you see a knife in the West Wing that night?

A Did I see one?

Q Yes.

A No, I didn't.

Q Did you see a knife in there at any time?

A No, I haven't seen a knife.

Q Did you know of a knife being there that night?

A No.

Q You didn't?

A No, not a knife in the gaol.

Q So you are denying that you knew of a knife?

A Yes, I am.

Q Sir, do you recall giving a statement on the 6th of September 1973 at approximately eight in the morning?

A I guess so. I don't know which one it is.

Q That was in the presence of Inspector Roberts?

A Yes.

Q I am showing you the third page of that statement. Would you look at the part that is underlined, approximately the middle? Now, sir, could you read out the portion of the statement relating to a knife?

A I knew of a knife being in the wing that night.

Q Now is that a statement signed and initialled by you?

A Yes, it is.

Q Are you now saying that the statement isn't true?

A Yes, I am. I can't remember the knife being in there that night, or I heard about it later, that there was a knife in the dorm.

Q You knew of a knife being in the wing that night?

A Okay, then I knew of a knife.

Q Now you're changing your testimony?

A Okay.

Q What you told us before wasn't true, just a few minutes ago?

A Why don't you say what you want to hear?

THE COMMISSIONER: Just a minute, Mr. Sims, we are here to find out the truth. There are rather

serious variations in your testimony. I can appreciate the pressure you're under and I appreciate your point of view, but you must also appreciate you are here to tell the truth. I can assure you of this, there will be no retaliation, there will be no recrimination as long as you tell the truth.

Q MR. MEURIN: Sir, are you not sure which is the truth?

A I am not sure which is the truth.

Q Warden Jackson always treated you fairly?

A Yes.

Q After the occasion of this so-called beating that you received this night why didn't you say anything to him next morning in Warden's Court?

A Because Mr. Schlegel was standing there.

Q You testified already that you heard that Schlegel was a square guy?

A Yes.

Q Was there any fear in your mind, or anything, about bringing the thing up?

A Not fear, it was just that I still didn't know, you know.

Q Sir, what was the name that you called the good guys to the guards?

A Crumbs.

Q Crumbs?

A Crumbs, yes.

Q Not exactly a complimentary term?

A No, it isn't.

Q Definitely, you wouldn't want to be regarded as a crumb?

A No, I am not.

MR. MEURIN: No further questions.

THE COMMISSIONER: Mr. Sims, I just have a few questions.

EXAMINATION BY THE COMMISSIONER:

Q Are you aware that the testimony that you give here today will likely be relaid back?

A Yes, I am.

Q And does that fact have any effect on the testimony that you give here today?

A No, I'm telling the truth the way I remember it, the way I recall it, and then there's some things I just don't remember, and you can't state exactly.

THE COMMISSIONER: I see.

A The way I can remember it.

THE COMMISSIONER: You would agree with me that if you give testimony here favourable to the administration might that put you in the designation of a crumb?

A It would, but then I can explain a way out of it.

THE COMMISSIONER: You would have to explain
your way out of it?

A Yes.

THE COMMISSIONER: Perhaps you might assist
me in that. You mean you might hve to explain it
to other inmates?

A Probably a group of them would sort of circle me
in the exercise yard if they heard I was being
favourable to the administration.

THE COMMISSIONER: And what would you expect
would happen?

A I would probably get pretty beat up.

THE COMMISSIONER: I see. Does that happen
frequently?

A Yes.

THE COMMISSIONER: Any questions arising out
of that?

CROSS-EXAMINATION BY MR. MACDONALD:

Q MR. MACDONALD: The Commissioner has asked
you have you hidden anything from us today because
of a fear of a beating?

A No, I haven't.

Q Have you told the truth here today?

A Yes, I have.

MR. PEACOCK: I have no further questions.

THE COMMISSIONER: We will take ten minutes.

(The Hearing adjourned and resumed at 11:40 a.m.)

MR. PEACOCK:

Call Gary Spooner, please.

GARY JOHN FREDERICK SPOONER,

having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Spooner, at the present time are you an inmate of Calgary Correctional Institution?

A Yes, I am.

Q And how long have you been there?

A Since June 19th right now.

Q Since - - ?

A June 19th.

Q This year?

A I was there before that, I was released before that.

Q Why were you returned?

A Being unlawfully at large.

Q The charge on which you were initially in was what?

A Breaking and entering and theft.

Q And how long have you got to serve?

A Right now about 40 days.

Q You were an inmate on July 17th 1973?

A Yes.

Q And where were you housed on July 17th?

A In the West Wing.

Q And what bed were you in, do you remember the number?

A I believe it was 38.

Q Who was beside you?

A One was Don Madsen and on the other side of me was Danny Winters.

Q And who was next to Winters on the other side?

A Robert Sims.

Q And who was next to Madsen on the other side?

A Jack Watson.

Q On the night of July 17th a bit of an uproar got started in the West Wing, is that correct?

A Just a little noise.

Q What time did the noise start?

A When the lights and the radio went off.

Q Do you know what time that was?

A No.

Q What was the noise?

A Yelling for the lights to be turned on and the radio to be turned on.

Q Were you involved in the yelling?

A I yelled when they first went off because I was standing in the urinal and I yelled for the lights to be turned on.

Q And what time to your knowledge were the lights to be turned off that night?

A I don't know. The lights are supposed to be turned off at ten o'clock and I think they went off - I think it was ten o'clock.

Q Did the yelling then continue for a while?

A Yes.

Q Were people banging on lockers with shoes and stuff?

A Yes.

Q And who was participating in the yelling and the banging on the lockers?

A Just about all the guys in the wing, I imagine.

Q Did you leave the urinal and go back to bed?

A Yes.

Q Did you continue yelling and banging on your locker when you got to bed?

A No, I wasn't banging on the locker.

Q Were you yelling?

A I only yelled once.

Q And when you went back to bed did the yelling and banging on the lockers that was going on continue?

A Yes.

Q And what happened?

A Well, it just continued for a while and then there was some guards walking in the wing and they were being called names and stuff and they went down to the end and the next thing I knew there was some more guards.

Q Who were the guards that came in when the yelling was going on?

A Coljee and Lynch.

Q Was Coljee the first one?

A I can't remember. I think he came in first.

Q What did he do?

A He came in and they were yelling and he stood by my bed, between me and Winters there for a few minutes and then he left there and stood between Winters and Sims' bed for a few minutes and then he left.

Q While he was standing there were people still yelling and banging/^{on}their lockers?

A Yes.

Q And were people yelling at him?

A They were talking about him.

Q Were they talking to him to his face?

A Well, to talk to his face you would have to be talking right to him and talking at him. Nobody was right there or saying anything to him.

Q I take it there was some generally unfavourable comments directed towards Mr. Coljee?

A Yes.

Q And this banging and yelling continued while he was in there?

A Yes.

Q What did he appear to be doing?

A Didn't appear to be doing anything.

Q What happened then? Did he leave?

A He went down to the end of the dorm.

Q Then what happened?

A Lynch walked back.

Q What did Lynch do?

A He never did nothing, just went down to the end of the wing again.

Q What happened then?

A It was a few minutes later and then a bunch of guards came in and then we were told to leave the dorm.

Q When the guards came in was the hollering and banging still going on?

A I think when they came in that it stopped.

Q Did you hear anybody shout something to the guards?

A At that time I think I heard someone say if you cross that line you're dead.

Q Was it an inmate yelling that?

A I would imagine so.

Q And he was yelling it at the guards?

A I would suppose so.

Q But the guards did come in?

A Yes.

Q What happened?

A Coljee came to me and he says get out of your bed, and I got out, I knew, and I started to get dressed, and he said no, just your shorts, and I noticed Sims was already out of bed and Schlegel was hitting him, like over his hands, and then he was hitting with a billy club, and then I tried to leave.

Q I see. How far away from your bed was Sims' bed?

A Just one over.

Q You were right beside his bed?

A Not the next one, Winters was in between us.

Q It looked like Schlegel was hitting Sims with a billy club while he was still in bed?

A Yes.

Q And then you went up to the front, up to where the gate is, is that correct?

A Yes.

Q Who was with you?

A Coljee, that's the only one that I noticed there with me at the time.

Q Were there any other inmates around when you got to the gate?

A No.

Q You were the first one, and what did you see and what happened?

A This is when I seen Schlegel hit Winters and Watson, and then he clubbed Sims again. He was beating on Sims in the corner.

Q You say you saw him hit Sims, Watson or Winters?

A Winters.

Q Where did this occur?

A Just outside the little entranceway. There's the guard's cubicle, and we were going out and right there there's the door.

Q You were right beside the guard's cubicle when you saw Winters and Sims being struck, is that correct?

A Yes.

Q Could you show the witness Exhibit 12, please? In the middle there seems to be a booth with some glass around, is that correct?

A Yes.

Q That is the guard's cubicle, is it?

A Yes.

Q From the picture can you point out where Sims and Winters were standing when they were struck at this time?

A Through that gate there.

Q You had gone through the gate?

A Yes, where those two garbage cans are on the other side of the gate.

Q Is that where you saw Sims and Winters hit?

A Yes. Winters and Watson.

Q Watson?

A Yes, there's a little table you can't see in this picture where they put coffee on, and it's just right on the corner there.

Q Who was hit first, Winters or Watson, do you recall?

A Winters.

Q And who hit him?

A Schlegel.

Q Were you ahead of Winters or behind him when you got to that part of the dorm?

A We were all kind of together there.

Q So all four of you had been moved to there?

A Yes.

Q Did you go through the gate pretty well together?

A He was swinging and I was getting out of the way. I got through there and I was moving around the corner already and when I looked back he had Sims against the wall and he was pushing him like this.

Q This is Sims he had against the wall?

A Yes.

Q And this was right outside the gate beside the guard's cubicle?

A No, he was hitting Sims just inside at the exit to the - when you come through this gate here, through the doors there and up in the corridor.

Q To go back, you say he hit Winters and Watson first, did he?

A When we were in this area.

Q When you got to that area you have just shown us, at that time you say Schlegel hit Watson and Winters?

A Yes.

Q Who did he hit first?

A Winters.

Q And where did he hit him?

A Just on the arms and shoulders, and he got him right here.

Q On the arm?

A Yes.

Q Was Winters moving when he was being hit, or was he standing there, or what?

A No, he was trying to move when he got hit.

Q Was his back against the wall, or his front against the wall, or anything like that?

A Kind of against the table, like.

Q Was he facing Schlegel when Schlegel struck him?

A Yes.

Q Were you able to form an opinion as to how hard these blows were?

A Well, they looked to me like they were.

THE COMMISSIONER: They were what?

A I would say they were hard.

Q MR. PEACOCK: I see. Could you hear the
being
blows as they were/struck?

A Not really, you could hear like the swack.

Q I see. What was Mr. Schlegel hitting him with?

A Just a little black thing.

Q I wonder if we could ask you to look in the box of exhibits and tell us if one of the articles in there resembles the item that Mr. Winters was being struck with?

A I think it was something like this, but I thought it was blacker.

MR. PEACOCK: What exhibit number is that,
Mr. Clerk?

THE CLERK: 36, sir.

Q MR. PEACOCK: It looks something like Exhibit 36?

A I thought it was a black one.

Q You weren't struck with it?

A I was, just once but my back was towards it, I don't know.

Q Well, at this stage you're just coming out from beside the guard's cubicle when Schlegel hit Winters, and how many times did he hit him?

A About four or five times.

Q Was he saying anything to Winters at that time?

A Yes, he was. You know, he was pretty uptight the whole time and he was swearing at him.

Q I see. Did Winters say anything to him?

A No.

Q What did Winters do after Schlegel hit him?

A He was telling him to move and so we were moving, we were all moving to get in there to get out of their way.

Q Did you see Watson hit?

A Yes.

Q When?

A I seen Winters get hit.

Q Where was he hit?

A On the arm.

Q Was he facing Schlegel when he was hit?

A No, I believe he was going out of - he was going sideways through the door.

Q And did you/^{see}Mr. Schlegel strike him with the billy club?

A Yes.

Q What arm did he hit?

A The left arm, I thought it was. He was going sideways, the left arm.

Q Then you all got into the hall, is that correct?

A I was in the hall first and there was a couple of guards - Garry was right beside there, and there was another guard, I think it was Coljee, but I am not sure, and when I looked around Winters and Watson were right beside me and Sims was against the wall.

Q All right. Now Sims you saw against the wall?

A Yes.

Q Was his back to the wall or his front to the wall?

A His back to the wall.

Q And he was being struck, was he?

A Yes.

Q And who was striking him?

A Schlegel.

Q And where was that? What part of the body was he hitting him?

A On the shoulders, the upper arm and shoulders.

Q There is no doubt he was facing Schlegel when he was being struck?

A He was trying to turn sideways away, to get away from

him and he got struck on the back about here.

Q How many times did Schlegel hit Sims at that time?

A I wasn't counting how many times, I was pretty shocked he was getting beat up like that.

Q Did he appear to be hitting him hard?

A Yes.

Q Was Sims saying anything to him?

A No, he said - he says words to the effect like I didn't do nothing, that's what he said.

Q What did Schlegel say?

A He was just swearing, like I said, he kept calling him names, like.

Q What was he calling him?

A Calling him a fucking asshole and fucking cocksucker.

Q That was Mr. Schlegel?

A Yes.

Q After you looked back and saw Sims being struck by Schlegel what happened?

A I was watching it, and then he got away and he caught up to everybody else. We were walking in the hallway and he told us to run, so we ran and we ran right up to the hall, or ran to the cell block door.

Q Then did you have to wait for the guards there?

A Yes, we had to press the button trying to get in, but they didn't open the door.

Q Who opened the door?

A One of the guards inside the cell block opened the

door when the rest of the guards got there.

Q Then what happened?

A We went downstairs, like there's the entrance to the hall, so when we got downstairs we were told to strip off everything. We only had our shorts on, anyway, so we took off our shorts and everything and Mr. Schlegel was standing by the door to No. 1 Cell, and they took the mattress out of there, and he was standing with a billy, and Sims went through first and then Winters, and each time one of them passed they got hit with this billy, and he was just raising his billy and I figured, well, if I move quite fast I could get in and I wouldn't get hit, and so I was running to get in, I pushed Watson, and someone kicked me from behind and I caught my knee on the corner, and that's the only time I got hit with the billy.

Q You were hit by the billy as you were starting in?

A I got kicked by somebody from behind, that's the only time I got hit by the billy.

Q You don't know who kicked you?

A No.

Q Were you involved in the yelling and banging on the lockers that night?

A No, I wasn't yelling and banging when I was at my bed.

Q You did your yell when you were at the urinal?

A Yes.

Q Would you say that the inmates of the West Wing were somewhat uptight that night?

A That night and quite often.

Q What do you observe as the reason for that?

A Just that night, or - - ?

Q Just generally?

A I believe the attitude on the part of the administration.

Q What part?

A Concerning the passes and their attitude towards the inmates.

Q Anybody in particular?

A Mr. Merriam and Mr. Lynch.

Q Had you had run-ins with these two gentlemen before?

A No, not really. I talked to them before.

Q When the noise started did you expect the guards to come in and endeavour to find the source and stop it?

A When the noise started I didn't think it was going to go on as long as it did.

Q It went on a little longer than you expected?

A Yes.

Q Did you receive any injuries in this incident?

A No. My knee was just a little sore for a couple of days. It went away.

Q When you were struck at the door going into the hall did you seek any medical treatment for that?

A No.

Q Were you charged as a result of the incident that night?

A Yes, I got charged with causing a disturbance.

Q Did you enter a plea to that charge?

A Yes.

Q What did you plead?

A Not guilty.

Q Was there a hearing held?

A I walked in the office and he asked me how I pleaded and I said no, and then I was going to explain myself, and he just started yelling 30 days off privileges.
-n't

Q You were/asked what happened?

A No.

Q Who else was there in the Warden's Court when you went in?

A Schlegel, Cater, Merriam. I can't remember who else if there was anyone.

MR. PEACOCK: Those are all the questions I have, would you answer the other counsel, please.

THE COMMISSIONER: Mr. Macdonald?

CROSS-EXAMINATION BY MR. MACDONALD:

Q You mentioned inconsistencies in dealing with Mr. Merriam and Mr. Elliott. Can you explain that for us?

A It seems the inmates, like everybody, puts in for day passes and there's regulations. I'm only saying it's just one inconsistency, and there's regulations.

Q When you refer to inconsistencies it was with respect to the granting or refusing of day passes, is that what you are referring to?

A Yes.

Q And is there anything else?

A And no communication. There doesn't seem to be no communication.

Q To what are you referring?

A Like say you've got permission to go in this room and they don't make a list for the guardroom the guard will say I don't have a list with your name, and it takes three or four days to get it straightened out.

Q How many people were present at the Warden's Court when you pleaded not guilty?

A I don't know who all was there. The names I mentioned, I can remember Schlegel, the Warden, Cater and Mr. Merriam, and I think there was somebody else too, but I am not sure.

Q How long did your trial in the Warden's Court take?

A I walked in there, he said how do you plead and I said not guilty, and he said - he was mad at me for something and that's the reason - well, it was just a matter of probably a minute.

Q Who started to yell at you?

A The Warden.

Q Were you given a chance to explain your position?

A No, but the day before I seen Mr. Jim David from the

John Howard Society and I told him what happened and everything, and just going by what he told me, he told me he would have to look into it for me, and when I went into the Court nobody said nothing on my behalf or nothing, and so they couldn't have investigated what happened.

Q You said the day before?

A Just a few hours before, I am sorry, when I went into the Warden's Court after I seen Mr. Jim David.

Q What time did you go to the Warden's Court?

A It was in the afternoon, I think around four o'clock or 3:30, something like that.

Q Who told you it would be investigated?

A My part in it would be investigated, Jim David told me he asked Mr. Merriam.

Q Did Mr. Merriam say anything at the Warden's Court?

A No, the only one who talked was Mr. Jackson.

Q And this Court lasted about a minute, did you say?

A At the most.

Q What was the result of the Court? What sentence did you get?

A 30 days off privilege and North Wing.

Q What does that mean, off privileges?

A You're locked up in the dorm except you go to meals and you've got no privileges, no TV, no tobacco, no canteen, no gymnasium, no church.

Q Was there any resistance on the part of the four of you when you were taken to the hall after you were removed from your beds?

A Any resistance on the part of us inmates? No.

Q Did any of you attempt to strike a guard at any time?

A No, I sure didn't.

Q Did you swear at those guards when you were going down the hall?

A No.

Q Did you hear any of the other inmates swear at them?

A No.

Q Were they swearing at you?

A Just Mr. Schlegel, he's the only one that said anything.

Q What did you think of Schlegel basically?

A I like him.

Q Was it out of character for him to behave this way, if you know?

A Yes, I believe so. Most of the inmates in the Institution like him because you can go talk to him and he will try to do anything for you if he can, always give you an answer as soon as possible and always talks to you straight.

Q Do you have any opinion why he would have acted in that way?

A I believe that he received information from the guards, this is my opinion, and maybe out of proportion, and

he was prepared to do something and he was probably psyched up and probably came in and figured that was the best way to do it, but he should have seen it and changed his tactics.

MR. MACDONALD: I have nothing further, thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, how long did this yelling and banging go on?

A How long did it go on altogether?

Q Yes.

A I'm not sure.

Q Well, can you not give us an estimate? A minute or ten minutes or half an hour, or what are you talking about?

A Three quarters of an hour. That's just a guess.

Q So this banging and shouting was going on for three quarters of an hour?

A Not steady.

Q And there was somewhere around between 80 and 90 inmates in this particular dormitory at the time?

A Yes.

Q And when the guards came in the last time someone shouted cross that line and you've had it, or something to that effect?

A Somebody said something like that.

Q Would you get a little psyched up when you're looking at 80 or 90 prisoners in that kind of a mood?

A They were psyched up before they came to the gate.

Q Would you be rather tense when faced with that kind of remark?

A Not if somebody in a group just said it like that.

Q Just an offhand remark?

A If somebody said it to my face, then I would be a little worried about it.

Q The fact it came out of a group wouldn't phase you at all?

A No, I don't think so.

Q Do you feel Schlegel was to blame for what happened that night?

A To blame for the banging, is that what you mean?

Q Well, the whole incident?

A No, he wasn't to blame for the noise being started.

Q It seems to me you're complaining that day passes are given out to people that the guards like and are not given to people the guards don't like, is that right?

A Well, not all the time.

Q Not all the time?

A No.

Q Some of the time?

A Most of the time.

Q Most of the time?

A Yes.

Q Are you saying, then, that in your opinion the guards

play favourites with people?

A Undoubtedly, yes.

Q Undoubtedly yes. Do you have any personal complaints about not receiving day passes yourself?

A No, but I know how the directive from Edmonton reads.

Q How does it read?

A Personally, being unlawfully at large I can't have a day pass. I have asked for a day pass and because I was getting out three days later, and if I wanted to attend something which in my opinion I will better myself, if I can't get a day pass it isn't going to hurt me.

Q So the fact you were unlawfully at large has classified you as being a poor risk for a day pass?

A Not if they take me as a person, not by my record because of the parole violation last year, and this directive, I was given a day pass.

Q You're wearing glasses today?

A Yes. Wore them yesterday, too.

Q Were you wearing them that night?

A Yes.

Q When you were in bed?

A Yes.

Q And while you were down in the cell?

A No, they took them off me while I was in the hole. I wore my glasses when I was in my bed because I was reading a book from the light behind me from

the other side.

Q Did you hear any of the people laugh when you were being taken out of the West Wing?

A No, nobody had laughed when we were waiting, no.

Q Nobody was laughing?

A I think most of us were scared. When we got in the hole I know the other guys were scared.

Q I take it that none of the four of you swore at any guard?

A I never heard it and myself, I never swore.

Q About how far away from Sims were you when you saw Schlegel allegedly beating him the last time?

A The last time when we were going to the hole? We were right there.

Q No, the last time before the hole, just when you came out of the West Wing into the corridor?

A When we came out of the West Wing on the way to the corridor.

Q How far away would you be from Sims at that point, Sims and Schlegel?

A From me to you.

Q 15, 20 feet, something like that?

A Maybe, if that's the distance.

Q And you couldn't hear anything?

A I could, yes.

Q Did you hear Schlegel swearing?

A Yes, he was the only one.

Q But you didn't hear Sims swearing?

A I don't remember exactly what Sims said, but it was something to the effect I didn't do nothing. That's what I heard him say, I don't say the exact words, but he wasn't swearing.

Q He wasn't swearing?

A No.

Q Are you sure of that?

A I won't say I'm sure because I don't remember exactly what he said. Maybe he did swear. He said I didn't do nothing, I know that's what he said, but I'm not sure exactly. I know once he said I didn't do nothing.

Q Sir, I take it that you know the Institution rules fairly well from your stay at the Calgary Correctional Institution?

A Most of the rules.

Q And you're familiar with the regulation that allows you to write to the Ombudsman?

A Yes.

Q And you are also aware of the regulation that states that mail to and from the Ombudsman and to and from inmates goes through unopened and uncensored?

A Yes.

Q Is it not the usual procedure that is followed when you write to the Ombudsman is you make a request to write to the Ombudsman?

A Yes.

Q You're given writing material and you're put in a room by yourself and it is there that you write the Ombudsman?

A Yes.

Q Are you aware that whatever you write to the Ombudsman is confidential?

A Yes.

Q In other words, he won't disclose it to anybody else?

A I guess he doesn't, yes.

Q Now, sir, did you write to the Ombudsman as a result of this incident that night?

A I didn't write to him about the incident, I wrote him about something else.

Q You did?

A Yes.

Q But you didn't write to him about that incident at all?

A No. I talked to his representative that came up about it, but he said that they have received letters from the other men and that my name would probably be brought up into whatever happened, anyway, there wasn't no need for me to write.

MR. MEURIN:

No further questions.

CROSS-EXAMINATION BY MR. McDONALD:

Q Did you at any time have occasion to examine the bodies of the other three men and determine whether

or not there were any marks on their bodies?

A I looked, I saw Sims' arm. I don't know what arm it was, but it was kind of red and puffed up. I had one right here on my arm, too.

Q Did you discuss these injuries among yourselves?

A Well, we all got hit here and I got hit on the knee and that's all I got beat like that.

MR. MACDONALD: Thank you, nothing further.

EXAMINATION BY THE COMMISSIONER:

Q THE COMMISSIONER: Tell me, did you request to see Mr. David prior to the Warden's Court?

A No.

THE COMMISSIONER: How did it come about that you saw him?

A Some people had requested and they told him I was downstairs when he was in the wing.

THE COMMISSIONER: So he came to you, did he?

A He came to see if I was all right.

THE COMMISSIONER: Where did you see him, sir?

A In the guardroom.

THE COMMISSIONER: He didn't see you in the cells?

A No, I got called upstairs.

THE COMMISSIONER: How long did you spend with him?

A Oh, I don't know. Half an hour.

THE COMMISSIONER: Is there any reason why any

of you didn't ask to have medical attention?

A I didn't ask because I felt okay.

THE COMMISSIONER: Did you discuss seeking medical attention while you were in the Detention Cells?

A Yes, Winters should get his arm looked at.

THE COMMISSIONER: But he didn't, as far as you know?

A As far as I know he didn't.

THE COMMISSIONER: Now you're aware, of course, that what you say here today will eventually get back to your fellow inmates?

A Yes.

THE COMMISSIONER: And you will have to account for what you said here today?

A Definitely I will be questioned about it.

THE COMMISSIONER: You know what I mean?

A I don't have to account to them. I have said nothing that anybody else in that position would. I told the truth.

THE COMMISSIONER: Had you given evidence favourable to the administration would you have to account for that to the inmates?

A If I give information favourable - -

THE COMMISSIONER: Testimony favourable to the administration, would you be regarded as a crumb?

A If I change my story?

THE COMMISSIONER: I am asking you if you give information which is favourable to the administration. You know what I mean by the administration?

A Sure I know. I wouldn't be bothered.

THE COMMISSIONER: You wouldn't be bothered?

A They would ask me what I said.

THE COMMISSIONER: You're not likely to be confronted in the exercise yard?

A I don't think so.

THE COMMISSIONER: You think the others would?

A I can't speak for the others, I don't know.

THE COMMISSIONER: Are you regarded as a leader out there?

A The administration regards me as a leader.

THE COMMISSIONER: Do the other men?

A No.

THE COMMISSIONER: Anything arising out of that?

CROSS-EXAMINATION BY MR. MACDONALD:

Q You say your evidence is not going to get you in any trouble?

A No.

Q The only thing that could really get you in trouble is if you gave information to the administration which the inmates know is not true?

A Yes.

Q Have you told any lies here this morning?

A No.

THE COMMISSIONER: Anything further?

MR. PEACOCK: Perhaps I could ask one
more question.

EXAMINATION BY MR. PEACOCK:

Q Mr. Spooner, if at this Inquiry you say things that
are contrary to the administration are you concerned
the guards might make recriminations against you?

A No, but if it possibly happened, anyway, I imagine
I could get word somehow to one of these lawyers.

Q If you have problems that concerned you in the In-
stitution there are channels which you can use to
voice your complaints?

A Yes, I could talk to somebody to let it be known.

MR. PEACOCK: All right, thank you.

THE COMMISSIONER: Two o'clock, gentlemen.

(Hearing adjourned)

OCTOBER 4th, 1973

DEPOSITIONS TAKEN AT 2:00 P.M.

MR. PEACOCK:

The commission will

call Donald Madsen, please.

DONALD EDWARD MADSEN,

having first been called and duly sworn, examined by Mr.

Peacock, testified as follows:

Q Mr. Madsen, you are presently residing at the Calgary Correction Institute, is that correct?

A Yes.

Q And how long have you been there?

A Three and a half months.

Q And how long is your sentence?

A Six months.

Q And what were you sentenced for?

A Possession of M.D.A.

Q On July 17th, 1973 you were in the Institution?

A Yes.

Q As an inmate?

A Yes, I was.

Q Where were you housed on that date?

A In bed 39 in the west wing.

Q And who was in bed 38?

A Gary Spooner.

Q And who was in bed 40?

A Jack Watson.

Q And who was next to Spooner on the other side?

A Danny Winters was in bed 37.

Q And next to him?

A Sims.

Q He would be in 36?

A Yes.

Q Now, on the night of July 17th, a bit of a ruckus started, is that correct?

A Yes.

Q What happened?

A The lights were turned out and myself and quite a few other inmates thought that the lights and the radio were turned out -- turned off early.

Q What time were they supposed to be turned off, do you know?

A The lights were supposed to be turned off at ten o'clock.

Q Do you know what time they went off that night?

A I thought it was a bit early. I am not sure what time it was. It was around ten or maybe a bit earlier. I don't know.

Q But everybody started yelling for the lights to go on?

A For the lights on and the radio on.

Q Did this happen every time the lights and the radios went off in the west wing?

A Most -- most of the time when the lights are turned out, somebody hollers "Lights on" or "Radio up" or --

Q Was this any different than any other night?

A Ah, about the only difference was I guess that more people were hollering, and it carried on for longer.

Q And were you one of the fellows hollering?

A Yes.

Q And what happened?

A Well, they were turned on and as soon as they were turned on everybody stopped hollering. And the guard on duty turned them off again and we started hollering "Lights on, radio up" and banging on the lockers. This happened a number of times.

Q What were you banging on the lockers with?

A Some people were using their fists. Maybe a boot or a slipper.

Q And how long did this yelling and banging of lockers go on that night?

A Ah, with the times that the lights were turned on and off maybe half an hour I guess.

Q And I take it that was longer than the "Lights on" yelling would go on on ordinary nights?

A Yes.

Q In fact, was it a fairly general banging of lockers and yelling that night?

A Ah, I think that more than half the wing was involved in it.

Q What happened as a result of this?

A As a result the guards came in and took four inmates

out. They took Sims, Winters, Spooner and Watson out of their beds and threw them in the hall.

Q I see. Was there guards in the area wandering around when the yelling was going on?

A A couple of guards had wandered and walked down the wing and back out, and it was quiet while they were in the wing.

Q I see. Was nobody yelling at them?

A Oh, there was insults hollered at a few of the guards.

Q Were you able to determine what those guards were doing when they were walking back and forth along the west wing?

A I wasn't -- I didn't pay much attention to them. I was playing hands and leading. I didn't even bother looking at them. I didn't want to be centered out.

Q Why were you yelling?

A Something to do I guess.

Q Did you expect anything to happen as a result of this yelling and banging of lockers?

A Not at first, but when I looked up to the front and there was more guards accumulating in the cubicle at the front, I expected something to happen. So that's when I stopped and started reading my book and they walked through and stuff.

Q Can you tell us how many guards came in?

A There was I think five or six came down and hauled out -- took the inmates out. They came down and --

Q Did these guards have any weapons that you noticed?

A Flash lights, and let's see, I can't recall seeing any, seeing a guard with a club or anything. I was -- one pointed at me with what I thought was a flash light. It might have been something else but I thought it was a flash light.

Q Did the guard say anything to you when he pointed it at you?

A He pointed it at me and said -- asked another guard "This one too?", and the other guard said "No".

Q Now, the guards removed these other four inmates, did they?

A Yes.

Q Did you see any of the guards striking the inmates when they were hauling them out of their beds?

A No, I didn't.

Q What happened then?

A After they took them out of the wing?

Q Well, I guess they got them out of bed. Did they herd them all up to the front?

A Well, when they got them out of bed they took -- I noticed them taking Sims and Winters and Spooner out of bed. And I looked and saw Watson with handcuffs on one of his arms. And then I thought "Well, I am going to be next". And a guard pointed at me and asked if -- asked "This one too?" and he said "No". And they herded them out up to the front and out the

door.

Q On their way up to the front, did you see any of the inmates struck by any of the guards?

A I didn't watch them go very far up the wing but the little distance I watched, I didn't see anyone being hit.

Q Did you hear anything or see anything else with respect to these four inmates after they got to the front and were herded outside?

A After they were herded outside, I could hear some yells but that was about all.

Q After they herded these four fellows out, did the yelling and banging on lockers continue?

A No, it didn't.

Q So once the guards came in and took these four fellows out, the wing quieted down, did it?

A Yes, it did.

Q Did the lights stay out?

A Yes.

Q And the radio stayed off?

A Yes.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

MR. STILWELL: No questions.

THE COMMISSIONER: Mr. Macdonald.

CROSS-EXAMINATION BY MR. MACDONALD:

Q You were right in the centre pretty well of the four that were taken away, weren't you?

A There was three on one side of me and one on the other.

Q And you indicated that you felt that about half the dorm was involved in this shouting and banging, is that right?

A Yes.

Q Was there any^{more} or any less in this particular area than they were elsewhere in the dorm?

A I don't think there was any^{more} in our area than in any other area, except right at the front they were pretty quiet.

Q Those are the ones right under the guards' nose, are they?

A Yes.

Q Now, how much shouting and locker banging did you do?

A Oh, a fair, maybe five minutes or so.

Q The four that were taken out, were they all banging on their lockers and shouting?

A I hadn't noticed Gary doing anything because he said he would get nailed for it if he made any noise.

THE COMMISSIONER:

Gary?

A Spooner.

MR. MACDONALD:

Now, you heard

somebody say to Sims "Get up, get out of here",
that right?

A Yes.

Q Did you see any of the inmates resist the guards at
this point?

A No, I didn't.

Q Did you see anybody get struck?

A No, I didn't.

Q Was there a reason why you didn't see anything like that
that occurred?

A Well, I saw the guards come down and I just kept on
reading my book and thought "Well, I hope they don't
-- I don't get centred out for something because
somebody is going to get hauled away".

Q Was the light on on your side of the dorm at that
time?

A No, the light was pretty dim but there was enough in
the wing that I could see to read.

Q And were they all taken from their beds at the same
time?

A Fairly close.

Q How many guards were there?

A Five or six I think. Yes, five or six I am pretty
sure.

Q Were you sitting up or lying down?

A I was half sitting up with my pillow against the wall.

Q Could you see what was happening at the head of Sims bed?

A I could see -- no, I couldn't. I could see about the bottom, less than the bottom half of his bed.

MR. MACDONALD: Fine. Thank you.

THE COMMISSIONER: Mr. Scott.

MR. SCOTT: I have no questions.

Thank you, sir.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions.

EXAMINATION BY THE COMMISSIONER:

Q Tell me, did you hear anything in the area of Sims bed?

A I thought I had heard -- heard a slap or something like that but I wasn't sure.

Q How far would you be from the bed?

A 15 feet.

Q And what do you mean by 15 feet, how far --

A There was two beds in between.

Q Two beds in between?

A Yes.

Q And would the beds be on the same side?

A Yes.

Q And would they be to your right or to your left?

A It was to my right.

Q Two beds only?

A Yes. There was my bed and two beds and then Sims was the third bed.

Q And what would then block your view of the head of Sims

bed?

A The lockers.

Q The lockers.

THE COMMISSIONER: Thank you.

MR. PEACOCK: I have nothing
further from this witness.

THE COMMISSIONER: Thank you very much
Mr. Madsen.

MR. PEACOCK: Thank you, Mr. Madsen.
(Witness retires)

MR. PEACOCK: Call Wallace Graham.

WALLACE JOHNSTON GRAHAM,

having first been called and duly sworn, direct-examination by Mr. Peacock, testified as follows:

Q Mr. Graham, you are presently a resident of the Calgary Correctional Institute?

A That's correct.

Q And how long have you been there?

A Ah, since March.

Q I see. You were sentenced in March?

A April 17th I was sentenced. I have been there since March. I was on remand for two weeks.

Q I see. What were you charged with?

A Theft of a stolen automobile.

Q And how long will you be there?

A Beg your pardon?

Q How long will you be there?

A November 26th.

Q You were a resident there on July 17th?

A I was.

Q Of this year. Where were you residing in the Institution?

A In the west wing.

Q What bed number, do you know?

A Bed number 13.

Q Perhaps we could show the witness one of the photographs, exhibit number 16. Exhibit number 16, does that show the side of the wing which your bed was on?

A Yes, it does.

Q Could you hold the picture up and show the commissioner where your bed was in that picture.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Would you show me too, please.

A Right here.

Q Are you able to tell me from that picture where an inmate by the name of Sims bed was located?

A It should be almost directly opposite mine, in this bed here.

Q I see. So you would have been across the corridor from Mr. Sims bed?

A Yes, I was.

Q Now, on the night of July 17th a bit of a disturbance

broke out around 10 o'clock, is that correct?

A That's correct.

Q What happened?

A Well, normally before -- when it comes time for lights out in the wing, normally the lights -- most of the lights go out but they leave some of the lights on for about five minutes so that you know the lights are going, so if you are working on a hobby or if you are writing a letter, you can finish it up and put it away. And on the night in question this didn't happen. Everything just went right out, all the lights went out together and the radio went off. And of course everybody got a little bit up tight and some -- some of the people in the wing started hollering and screaming and "Turn on the lights", and there was quite a few other obscenities that were yelled.

Q Who were these directed to, anybody in particular.

A Ah, not anybody in particular right at the moment. Just "Turn on the lights" and you know "You ass hole, you turned the lights off to early". "Turn back the radio", "Turn the radio back on". And Mr. Dewar was the guard in question on that night and the lights came back on again. They came on for about oh, five or six minutes and then they went out again.

Q During the time that the lights came back on, did this yelling and what not continue?

A No, when the lights came back on everything quieted down.

Q Alright. Then what happened.

A The lights went off again.

Q And did the banging and yelling start again?

A Right. As soon as -- as soon as the lights went off everybody started yelling again.

Q Were you yelling at this time?

A No, I wasn't.

Q Did you partake in any of the yelling or locker banging that went on?

A No, I didn't.

Q I take it once the lights went on and off the second time, the yelling continued?

A Yes, it did.

Q Are you able to tell us how long that yelling and noise making went on?

A Not more than five minutes. Like the second time after the lights went out.

Q Yes.

A Well it -- it kept on. It would come on and they would yell and then it would be quiet. Then somebody else would yell and it would start up again for another two or three minutes. Then it would be quiet. So I guess this went on for about ten minutes until finally they got in touch with the guard room and Mr. Coljee came down.

Q Mr. Coljee is a guard?

A Yes, he is.

Q What did he do?

A He walked up -- well, I think he came down our side of the wing first. Then he walked up and down the wing and he was taking down some names. Then he would walk over to the wall in between the wing and look around to see what was happening on the other side. He did this for about five or six minutes. Then he just went out, went out of the wing.

Q Was there any yelling going on when Mr. Coljee was walking up and down the ward?

A Yes, there was.

Q What kind of yelling was that?

A Well, it wasn't very nice.

THE COMMISSIONER: I take it witness there were allegations about Mr. Coljee's personal habits?

A Yes, there were.

Q MR. PEACOCK: They weren't yelling "Lights on" to Mr. Coljee?

A No, they weren't.

Q Okay. When Mr. Coljee left the wing, did anybody else come up and down? Did you see any of the other guards come in?

A No, I didn't see anybody myself, no.

Q Then what happened?

A Well, a short time transpired, I don't know how long it was and the yelling was still going on and then a

whole bunch of guards came in. Now, I don't know all of the guards. Some of them I did know. Some of them I didn't. I knew Mr. Schlegel and Mr. Addinall, Mr. Coljee, Mr. Cater and those are about the only -- I had only been in the wing a short time so those are the only guards I knew at that time. And some of them went down one side of the wing and three or four of them came down our side of the wing. And when they got opposite the beds just across from me, like Sims was in one bed and there was Sims, Spooner, Watson, I don't know -- I don't know the other guy. I just heard his name, Sims. When the four of them got opposite the bed, they just turned around and they went in. And I was watching Sims more than anything else and Sims jumped out of bed himself and Mr. Schlegel, he went to hit him and Sims put up his arms like that. And it all happened very fast. After that he just grabbed Sims and he gave him a shove and he went up, sort of pushed him up the wing. And the rest of them, they were just being hussled out of the wing. It happened very quick.

Q You say Mr. Schlegel approached Sims bed, did he?

A Yes, he did.

Q Did you hear him say anything to Sims?

A No, I didn't.

Q All you saw was Sims jump out of bed?

A I saw Sims get out of bed.

Q Did you see Mr. Schlegel hit Sims while he was still in bed?

A No, I didn't, no.

Q But you saw him take a swing at Sims after Sims got out of bed?

A Yes, he did.

Q Did he hit Sims, did you see?

A I have no idea whether it landed or not because Sims had his arms up so he couldn't hit him. He couldn't

--

Q And then you saw Mr. Schlegel push Sims up towards the door of the west wing?

A He just grabbed, turned around and pushed him up towards the front. And by that time the other three were being -- were being taken out as well.

Q Did you see any of the other inmates struck by any of the guards at that time?

A No, I didn't, no.

Q When you saw them get to the front of the wing between where the beds are and the door is, did you see any of the guards strike any of the four gentlemen as they were being taken out?

A No.

Q Did you see anything after they got out into the hall?

A Well, I couldn't see once they left, left the dorm. All I could do was hear what was going on.

Q Could you hear what was going on out there?

A Well, I just heard some yelling and that like you would if there was five or six people scuffling around. But other than that you couldn't put your finger on it and say that's exactly what was happening.

Q Did you notice after these four gentlemen were removed the yelling and locker banging ceased?

A Definitely.

Q And I take it the lights stayed out and the radio stayed off?

A Right.

Q Were you aware of the fact that when the lights went out, if not the first time, the second time, that that signified that the inmates were supposed to be in bed?

A Everybody was in their bed at that time.

Q I see. "Lights out" means what?

A It means "Go to bed" depending on -- now, the lights go out, depending on what day of the week it is. The lights usually go out at 10 o'clock but you can still move around the dorm if it's on the weekend until 11 o'clock, until the T.V. goes off. But once the T.V. and radio goes off, that's the last thing that goes off in the dorm.

Q And that's when you are supposed to be in bed?

A That's when you are supposed to be in bed.

Q Were you charged with any offence in the Institution itself as a result of this evening?

A No.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

THE COMMISSIONER: Mr. Macdonald or Mr. Scott.

CROSS-EXAMINATION BY MR. SCOTT:

Q I just have one or two questions, Mr. Commissioner. Mr. Graham, were you doing any of the yelling this evening in question?

A No.

Q You weren't yelling at all?

A No.

Q Now, I take it did you observe Sims and Spooner, Winters and Watson doing any yelling?

A Yes, I was.

Q They were in fact yelling, were they not? And I understand that there was a large number of other people yelling as well, is that right?

A I wouldn't say a large number.

Q Approximately how many out of the, and I understand there were approximately 90 people in the wing that night?

A Well, it would go on -- it would go in spurts, like maybe three or four would holler around here and as soon as somebody would look it would stop over there, and it would start over one of the other ends of the wing.

Q When you say "somebody" you mean one of the authorities, one of the guards?

A One of the guards.

Q So to your observation, it was actually going back and forth?

A It was going back and forth. How many people were actually involved in yelling you couldn't really tell.

Q Would you say that Sims and the other three were more involved or less involved or say equally involved as other people in the room?

A I would say about equal.

Q About equal?

A Yes.

Q Did you form an opinion as to whether or not they would be the instigators of this banging?

A I don't know what -- where it would start.

Q Are you aware of whether or not the "30 day remands" were the cause or were the initiators of the noise?

A I really have no idea how it got started.

Q I see. Did you see Mr. Sims throw any blows towards the guards at any time?

A No, I didn't.

Q You definitely saw Mr. Sims put his hands up?

A Yes, I did.

Q In a defensive manner, that is in front of himself?

A Yes.

Q To ward off a blow?

A Yes.

Q But you didn't see a blow land?

A No.

Q Did you not see a blow land?

A No, I didn't see one.

Q So you are not sure whether one landed or not?

A Well, I seen the blow come but whether it -- whether it hit him or not, like he had his hands up like that. Whether the blow hit him or not --

Q Let's just make sure we are certain on this.

You actually saw a blow, the arm move, is that correct?

A Yes, I did.

Q It wasn't just a threat?

A No, it wasn't a threat. He actually went to strike Sims.

Q Very good. Did anyone identify you or suggest that you should be taken out?

A No, no. The only other -- the only person that they said that to was Donny Madsen. After they had taken -- after they had taken the four out, they came back and they said "Him too" and they said "No, leave him. He's okay".

Q The cause of this, do you have any opinion as to why this melee broke out?

A Well, in the Institution when the lights go off, this sort of thing goes on every night really. I mean

nobody is happy you know, no grown man, no grown men are happy to go to bed at 10 o'clock. And when the lights go out every night, you get a little bit of yelling but it usually lasts maybe 30 seconds and then it calms down. This night it just kept on, just carried on and carried on. I think it was because of -- because of the lights going out so abruptly and also because of the way the guard, Mr. Dewar was acting too because he thought it was just a big joke himself. This could have been stopped I think before -- before it even got started.

Q Now, how was Mr. -- you say that Mr. Dewar thought it was a big joke?

A Well, there was a little bit of yelling at him also, you know. And I heard him make a couple of comments back.

Q What did you hear him say?

A Well, he said, well you know "Fuck you guys", you know, just like that and --

Q Did he say --

A He thought it was more of a joke than anything else when it first started. But then it got out of hand and it didn't become a joke any more.

Q When he made this remark, did he make it more than once?

A No, I just heard him make it once.

Q And did he make it generally to the group or to any

particular person?

A No, pretty well to the group. He's sort of like that. He kids around a little bit and I guess he thought it was a big joke at first.

Q And when did it become apparent to you that this was going on longer than usual?

A Well, once it -- once it quieted down and then started up again. Usually once it stops, it stops and that's it. When it started up again the second time ---

Q Do you feel that if the lights had not been turned back on and then turned off again that this perhaps might not have gotten out of hand?

A I -- I can't really say, you know. I think it would have stopped yes, because if it's left, it only goes on usually for five or ten minutes and then it would stop completely and would have stopped on its own.

Q How many times did the lights go on and off?

A Just the once to my knowledge.

Q What do you feel the purpose was or what was your impression when the lights went on? What did you feel was happening?

A Well, I thought Mr. Dewar was fooling around. Just, you know, turn the lights on to get us to shut up and then as soon as we shut up, turn the lights off again.

Q Did the radio go back on again?

A I didn't hear the radio on.

Q And the lights went on. How long were they on in that instance?

A Maybe five minutes. Long enough for a couple of people to get up and go down and start playing bridge again.

Q Okay. And did the yelling and banging subside when the lights went on?

A Yes, it did. Yes, it did.

Q Then the lights went off again?

A Yes.

Q And did it start again?

A Yes.

Q Other than the verbal threats and the verbal abuse that was heaped upon the guards, did you see anyone make any physical threats against the guards?

A No. I could only see my side of the dorm but there was nobody out of their bed on the side of the dorm when I was there.

Q Did you -- well, I will ask specifically. Did you hear an out and out statement by someone in the dormitory that if the guards stepped across the line they would be done in or that would be it?

A Yes, I did.

Q You did hear that. Do you know who said that?

A Yes, I do.

Q Who?

A Sims.

Q Was anyone out of their beds at all?

A Beg your pardon?

Q When the group of guards, that is the large group of guards came in, was anyone out of their beds at all at that point?

A Not on my side of the dorm, there wasn't.

Q When Sims was pushed down from his bed down to the head of the dormitory, what was the fashion, what was the manner, what was the manner in which he was escorted out?

A Well, he was just -- he was -- he was pushed and like he sort of tripped and that and they didn't give him a chance to regain his balance. They just kept shoving him and pushing him until they were well out of the dorm and I couldn't see what was happening after that.

MR. SCOTT: Okay, fine. Thank you.

THE COMMISSIONER: Mr. Meurin.

MR. MEURIN: No questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Graham, did you see Mr. Schlegel come into the dormitory?

A I didn't actually see him walking in the dorm, no. The first time I seen Mr. Schlegel was when he was just down opposite my bed.

Q Did you see him approach Sims bed?

A Yes, I did.

Q And as he approached Sims bed, did Sims get out of it?

A When he was almost right at the bed, Sims got up because I think he was thinking, well, you know, he doesn't look very good coming so he jumped out of bed.

Q Yes. Now, would Mr. Schlegel be approaching the foot of Sims bed or the head of the bed?

A No, he walked right in between the two beds.

Q I see. And by the time he got to the bed, would Sims have been out of his bed?

A No. I think Sims got out of his bed just as he got to about the foot of his bed. Well, he knew that he was -- he made a move towards Sims and --

Q And Sims got out of bed. Did he get out of bed quickly?

A Pretty quick.

Q And without any trouble?

A No trouble.

Q I see. And then is it your evidence Mr. Graham that the only aggressive action you saw taken by Schlegel was when he swung?

A At Sims.

Q At Sims?

A That's the only aggressive action I seen.

Q And that was the only time he swung?

A To my knowledge, yes.

Q You were watching him?

A Right.

Q You were right across from him?

A Right.

THE COMMISSIONER: Anything arising out of that, gentlemen?

MR. SCOTT: Just one question.

RE-CROSS-EXAMINATION BY MR. SCOTT:

Q Mr. Sims you have stated to the commissioner got out very quickly as Schlegel got to the foot of the bed, is that right?

A Umm hmm.

Q Did Sims offer any resistance to Mr. Schlegel at that point? Did you see any reason at all why Schlegel would swing a club?

A No.

Q Or anything at him?

A No.

MR. SCOTT: Okay, fine, thank you.

MR. PEACOCK: Thank you, Mr. Graham.
(Witness retires)

MR. PEACOCK: I will call John Bernard Harwig, please.

JOHN HARWIG, having

first been called and duly sworn, direct examination by Mr. Peacock, testified as follows:

Q Mr. Harwig, you reside at the Calgary Correctional Institution?

A Not right now.

Q You are in Bowden, are you?

A Yeah.

Q Were you in the Institute in Calgary on July 17th, 1973?

A Umm hmm.

Q How old are you?

A 19.

Q When were you transferred to Bowden?

A About a month and -- a month and a half ago.

Q I see. When were you first sentenced to a term in the Institute?

A March 27th.

Q And what was the charge that you were sentenced for?

A Break, enter.

Q And how long is your sentence?

A A year.

Q And you are presently in Bowden and have been for a little over a month?

A Yeah.

Q Now, on July 17th were you housed in the west wing?

A Yeah.

Q And what bed were you in?

A Ah, I think it was 53 or 55 or something. I am not quite sure.

Q I see. Mr. Clerk, will you show Mr. Harwig exhibit, I believe 16. Does that picture in exhibit 16 show the side of the dorm where your bed was located?

A No.

Q Would you show the witness exhibit 17, please. Is that the side of the dorm your bed was on?

A Yes.

Q Would you show the commissioner where your bed was located there, please.

A This one here.

THE COMMISSIONER: Thank you.

MR. PERCOK: Could you show the rest of us, please.

A I don't know if you can see it. This one right here.

Q I see. Where was the bed of an inmate by the name of Sims in relation to your bed?

A He was directly across the wall on the other side.

Q So the heads of your beds and the lockers would have been against each other?

A No, no -- excuse me, not directly. Not -- you know, within a few beds of each other.

Q I see. What divides the row of beds that you were in and the row of beds that Sims was in?

A There's a wall. It's about four -- four feet high.

Q And then at the head of each of your beds is there a locker?

A Yes.

Q If you were sitting up in bed reading, would your pillow be against the wall or against the locker?

A It would be against the wall.

Q I see. And the locker would be beside the head of your bed?

A Beside, yes.

Q And you say Sims bed was on the wall behind you?

A Right, and about three beds down.

Q Do you know who was directly behind you?

A Madsen, Don Madsen.

Q I see. Now, on July 17th there was a bit of a disturbance broke out in the west wing, is that correct?

A Yes.

Q And what time did that happen, do you know?

A About 9:40.

Q About 9:40?

A Yes.

Q What happened?

A Well, instead of the usual procedure which is that the lights and the radio and the T.V. and that will gradually be turned off, the whole power for the wing was just turned off all at once. And I think it was about 10 minutes early, earlier than they should have been.

And a few people started screaming and yelling for them to get turned back on, and they were and everybody went to bed. And then the lights got turned out and the radio got turned out again. And I guess with the excitement and everything everybody started screaming and yelling and a ruckus started.

Q And what were they screaming and yelling?

A All kinds of things.

Q Primarily for the lights and the radio to go back on?

A Things like that, yeah, it would be.

Q And who were they yelling these things at?

A At the guard on duty.

Q Do you know who that was?

A Mr. Dewar.

Q Was he doing anything?

A He was laughing back at us.

Q Now, this yelling went on for how long?

A It went on for about, oh, three or four minutes I think. And then the lights and the radio got turned back on and they were on for about 10 or 15 minutes. Then they were turned off again and the yelling and screaming and banging of the lockers all started up again. And about 10 minutes later quite a few guards came down to see what was happening I guess.

Q When the lights went on finally and the yelling started and the locker banging started, were you engaged in

yelling and banging your locker as well?

A Yeah.

Q And you say that that went on for another 10 or 15 minutes?

A Yeah.

Q Did any of the guards to your knowledge come individually before the group of guards came?

A Ah, I think the group -- group of guards came and they were all standing at the -- at the cubicle kind of. And then there was Mr. Lynch and Mr. Dewar, they just walked up the -- up the isle way of the dorm and I think Mr. Coljee took a stroll up to at one time. I am not sure but I know Mr. Lynch and Mr. Dewar did.

Q They came up your side, did they?

A Mr. Dewar came up my side and Mr. Lynch came up the other side.

Q Who came up your side?

A Mr. Dewar.

Q Mr. Dewar?

A Yes.

Q Was anything said to Mr. Dewar by the inmates as he proceeded down the isle?

A I think there was a few things said. I don't really remember.

Q Now, did the yelling and the banging of lockers continue?

A Yes.

Q And did it continue as the gentlemen were going up and down the aisle?

A Ah, well, like when the guard was real close to you he would stop and you pretend you were asleep or something, you know. Nobody wants to set themselves up for anything. But as soon as they were out of distance, I guess it started, the banging and that started up again.

Q And after Dewar and Lynch and Coljee had finished this tour, did the banging and yelling continue?

A Umm hmm.

Q What happened then?

A Well, it -- it seemed to me like all the guards kind of went away for a second. And we started yelling and screaming. Well, we were -- kept right on, you know, yelling and screaming. And about five minutes later they all came back in and Mr. Cater had a tear gas gun. I guess it was the --

THE COMMISSIONER: Mr. who?

A Mr. Cater and there was about four or five other guards. They came up one side of the dorm and Mr. Cater stood at the end of the dorm and he said something to the effect "The first guy that moves, gets it".

Q Did you hear any one of the inmates yell anything to the guards as they started to come in?

A Not in that particular occasion, I don't think so, no.

Q You didn't hear --

A That was all before, all the yelling and screaming at the guards.

Q You didn't hear anyone yell a threat to the guards?

A I didn't hear any. I heard about what you are trying to get at but I didn't hear anything.

Q You didn't hear it?

A No, I didn't.

Q Now, Mr. Cater came in and stood at the head and he had a gun, did he?

A Yeah.

Q Was it a gas gun?

A To my knowledge, I thought it was a shotgun at the time but I found out later it was a tear -- tear gas gun.

Q Perhaps we would have the clerk show the witness exhibit 38.

THE CLERK:

38.

Q Does that look like the gun that Mr. Cater had?

A Yeah, it looks kind of like the gun he had.

Q And were any of the other guards as they came in, did you notice if they had anything by way of armaments?

A Well, I didn't -- I didn't see any, any other arms but I found out later that there were some but I didn't see any.

Q You didn't see any?

A No.

Q Did any of the guards come down your side of the wing?

A No, not -- not at this time. Not after that. It was just Mr. Cater on our side. He was standing there most of the time.

Q What did you see happen when the guards got there?

A Well, when the guards got there they -- there was -- I can't remember exactly. There was Mr. Schlegel and there was Mr. Addinall and there was a few other guards. I can't really remember. They came up the other side and it happened pretty fast. But they grabbed the four guys that got grabbed. I think you were already talking to them.

Q Did you see this happen?

A I was looking over the wall. I seen this happen, yes.

Q Had you gotten out of bed?

A No, I was kind of sitting on the bed on my knees.

Q You could see over the wall?

A Yes.

Q What did you see?

A Well, I seen -- I seen the guards coming to the bed and I seen some scuffling and some shuffling around and some guards telling people to get up and that's about all I really seen.

Q Did you see any of the guards strike any of the gentlemen as they were getting them up?

A Ah, I wasn't really looking that close to see any -- any actual -- I seen some pushing and some shoving and I seen one -- I was looking at Watson and I seen him get the handcuffs put on.

Q Do you know who put the handcuffs on?

A I think it was Mr. Uitbeyerse.

Q And did you see what was happening to Winters and Spooner?

A No, I didn't.

Q Did you see what was happening to Sims?

A I seen -- like all the beds, they are pretty close together and when there's that many people around, you know, it just looks like kind of one big mess and the lighting wasn't that good and that and you know, I didn't really see anything in detail. I can't really tell you if anybody struck anybody in right in a certain position, you know, I can't. I would be lying if I said anything like that.

Q There was some scuffling going on?

A Yes.

Q Did these four gentlemen ultimately get taken out of bed or did they ultimately get up?

A Well, I think they got up generally on their own power and they were told to get out of the dorm.

Q And did they start out of the dorm?

A Yes.

Q Did you observe as they were walking from the bed area

up to the front of the west wing, did you observe what happened?

A No, I just -- I just kind of thought it was funny, four guys walking in a line in their gaunchies.

Q I take it they didn't have pants on?

A No, they didn't.

Q Did you hear any of the guards or any of these four gentlemen yelling at each other at any time or saying anything to each other as they were going up in their underwear?

A No, I didn't.

Q Did you observe anything that happened when they got outside the doors of the west wing?

A No.

Q Did you hear anything going on out there?

A By that time I was laying back in my bed laughing about the whole situation.

Q I take it you weren't struck on the occasion?

A Pardon me?

Q I take it you weren't struck on that occasion?

A No, I wasn't. No, I wasn't struck on that particular occasion.

Q When they got these gentlemen out, did the wing quieten down?

A Yeah.

Q The yelling stopped and the locker banging stopped and the lights and the radio stayed off?

A Yeah.

Q Were you charged as a result of the yelling and the locker banging?

A Yeah, I was charged the next day.

Q And what happened?

A I was -- well, about 20 after 6 or so the guard woke me up and told me to get down to the guard room for my medication, so I put my clothes on. And I went down there. And there was Mr. Schlegel and three other guards waiting for me. They had my medication and gave it to me.

Q What kind of medication was that?

A I was -- I don't know what it was. I don't know. I don't have a clue.

Q Okay. Then what happened?

A They told me I would be going to the "digger" which is the hole, and they told me to come with them so I went with them. They took me downstairs. I asked them what it was about and they said "You will find out when you go to Warden's Court".

Q Were you subsequently taken to Warden's Court that same day?

A Yeah, about two hours later, three hours later.

Q And what occurred there?

A Well, I think it was about the third or fourth man to see the warden, and by that time he was a little -- he wasn't in too good a mood. And he just asked me

what happened. I told him the lights all got turned off and I screamed and yelled for them to get put back on. And he sentenced me to 30 days off priviledge.

Q And what occurred then?

A Nothing. I was shown the door.

Q I see. Did you stay in the west wing after that?

A No.

Q They moved you out, did they?

A Yeah.

Q Where did you move to?

A Well, first of all they told me to go to the cell block. When I got to the cell block, then I guess they changed their minds because there was so many people getting charged. They made us a special dorm in the north wing and there was four of us that got 30 days off priviledges and we spent I think it was two weeks in there. Then we got the charges dropped I guess or something like that.

Q Your priviledges started up before 30 days?

A Yeah.

Q Did you ever observe any weapons in the possession of inmates in the west wing when you were there?

A I wouldn't say I had observed any weapons there. I have seen knives in there but they were used for buttering bread that was snuck out of the kitchen.

Q I see. They were butter knives, were they?

A Yeah. And there was one guy in there he used to paint pictures, and knife painting, and he had a knife for doing that so I don't know if you would class that as a weapon.

Q You didn't see shives or anything like that?

A No. Everybody has got their own razor blade they used for shaving. That's about it.

Q I see. Do you keep those at night?

A Yeah.

MR. PEACOCK: I think those are all the questions I have. Would you answer other counsel, please.

MR. SCOTT: No questions.

MR. STILWELL: No questions.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions, sir.

MR. PEACOCK: Thank you, Mr. Harwig.

We will be having you back I believe in the next week.

(Witness retires)

(Recess)

(Reconvenience)

MR. PEACOCK: Call Andrew Dunn, please.

ANDREW ALFRED DUNN, having first been called and duly sworn, direct examination by Mr. Peacock, testified as follows:

Q Mr. Dunn, you are a resident of the Calgary Correctional Institute, are you?

A Umm hmm.

Q Are you presently in Bowden?

A Yes, sir.

Q When did you first go into the Institution?

A December 28th.

Q Of last year?

A Yeah.

Q On what charge?

A Break and enter.

Q And you were in the Calgary Correctional Institute until you were transferred to Bowden. When were you transferred to Bowden?

A August 29th.

Q A little over a month ago?

A Yeah.

Q You were at the Calgary Correctional Institution on July 17th, 1973?

A Umm hmm.

Q And you were housed in the West Wing, were you?

A Umm hmm.

Q What bed number were you, do you know?

A 20 I think, I am not sure. 20.

Q 20?

A I think. I am not sure.

Q Do you know what side of the Wing you were on?

A It depends on which way you are facing.

Q Alright. Show the witness exhibit 16, please.

THE COMMISSIONER: Mr. Clerk, show him
16 and 17.

THE CLERK: I have them both here,
sir. Show it to counsel and to the commissioner,
please.

MR. PEACOCK: What exhibit are you
looking at, 16?

THE CLERK: 16.

A On that side.

Q MR. PEACOCK: You would be on the
side closest to the windows?

A Yes.

Q And how far down?

A Right about, pretty close to the end. About four or
five from the end.

Q I see. Were you anywhere near an inmate by the name
of Graham, do you know?

A No.

Q How about Sims?

A No, they were down from me.

Q I see. So you were farther up the hall on the other
side from Sims and a gentleman by the name of Watson?

A Yeah.

Q And Winters?

A Yeah.

Q And Spooner?

A Yeah.

Q They were closer towards the guards cubicle than you were. What happened on the night of the 17th?

A Well, the lights got turned off. I think it was about 10 minutes early. A bunch of people started screaming and hollering, banging on the lockers. And the radio went off too. Then they turned the lights and the radio back on and then they turned them back off again.

Q How long were they turned on when they were re-turned on?

A Maybe half, two minutes.

Q And when they went out, did the yelling start again?

A Yes.

Q And the banging of lockers?

A Yeah.

Q Were you participating in the banging of the lockers and the yelling?

A Yeah.

Q How many of the inmates there would have been participating in this?

A I couldn't tell you. I don't know. I wasn't watching them.

Q Just a few or were most of the inmates yelling in the West Wing?

A I would say most of them but I never saw everybody so I

couldn't tell you.

Q So there was some yelling and banging on lockers.
Did that continue for awhile?

A Until the lights went back on and the radio.

Q Did they go back on twice?

A I think so. I can't quite recall.

Q I see. After the lights went off the last time
did the yelling and banging continue?

A I can't remember.

Q How long did the yelling and banging go on, do
you know?

A Not for that long I don't think.

Q Did any of the guards come into the West Wing when
the yelling was going on?

A I don't think they came in when the yelling was on,
not then but they came in after. Like Mr. Lynch
and Mr. Dewar came in.

Q What did they do?

A Well, Lynch walked down our side and walked right down
to the end of the table. Dewar walked down the other
side.

Q And what happened when they were walking down?

A Nothing that I know of.

Q Was it quiet in there?

A It was fairly quiet. Some talking.

Q Anybody yelling insults at those fellows?

A I think they started yelling at them when they went out.

Q I see. What were they doing when they were coming down? Did you observe that?

A Just looking around. They never said anything to anybody I don't think.

Q What happened after they left?

A Then Mr. Coljee come in.

Q What did he do?

A As far as I know he sat down by the end, by the cubicle.

Q Was there any yelling going on when he was there?

A Yeah.

Q What were they yelling, for the lights to be turned on again?

A No, there was -- they were calling him names and stuff.

Q They were yelling uncomplimentary things?

A Yeah.

Q What happened then, did he leave?

A I don't -- I am not sure because I wasn't actually, I wasn't sitting at my bed watching. I was laying down.

Q What's the next thing you recall?

A The next thing I know there was a bunch of guards coming in.

Q Did any of them come down and talk to you?

A No.

Q What did you see?

A I just saw them come in and I saw one of them was standing where Sims head was, standing right over top of Sims head. That was Mr. Schlegel and I saw Uitbeyerse, Mr. Cater. But I never saw anybody get hit or anything. I saw the guards shoving him around and telling him to get out of bed and stuff like that.

Q You didn't see anybody get hit?

A Not -- not with a billy club, not that smacked it.

Q Did you see anybody get hit at all?

A Just pushing and shoving or hitting?

Q Well, hitting. So you didn't see any hitting but you saw some pushing and shoving?

A Yeah.

Q And do you know, was there anything being said while this pushing and shoving was going on?

A I imagine so. I don't know. I never heard.

Q You didn't hear, okay. Did they push them and shove them up to the front by the door?

A Pushed them out through the gates.

Q I see. Did you hear anything after they were out through the gates?

A I heard the hollering down the hall.

Q What did you hear, anything specific?

A No, not any words just you could distinguish sounds.

Q When the lights went on the second time, did you get up and play cards?

A Yeah.

Q Were you supposed to do that after the lights went out?

A No.

Q I see. In fact, you were charged with an offence in the Institution after that night, were you?

A Umm hmm.

Q What were you charged with?

A Creating a disturbance after lights out.

Q Did you plead to that?

A Yeah.

Q What did you plead?

A Guilty.

Q And did you attend before Warden Jackson?

A Umm hmm.

Q What was your sentence?

A Five days loss of priviledges.

MR. PEACOCK: I see. That's all the questions I have. Would you answer other counsel, please.

MR. MACDONALD: No questions.

MR. SCOTT: No questions, sir.

THE COMMISSIONER: Thank you very much, sir.

(Witness retires)

MR. PEACOCK: Call Garry Ramchuk, please.

GARRY RAMCHUK, having first been called and duly sworn, direct examination by Mr. Peacock, testified as follows;

Q Mr. Ramchuck, you presently reside at the Calgary Correctional Institute?

A Yes, sir.

Q And how long have you been there?

A Approximately five and a half months.

Q I see. What were you charged with when you went in there?

A Theft over.

Q And how long is your sentence?

A 18 months.

Q On July-17th you were in the Institution, is that correct?

A Yes.

Q And where were you housed?

A In the West Wing.

Q Do you know what bed number you were?

A 48.

Q I would ask the clerk to show you exhibit 16.
Is bed 48 on that side of the West Wing dorm?

A Yes, it is.

Q Could you point out to the commissioner where your bed was?

A There sir, right here.

THE COMMISSIONER:

Right angles to the other

beds?

A Yes.

THE COMMISSIONER: Was it that way
at that time?

A No. When you are using it, the other beds are
there.

THE COMMISSIONER: It's parallel to
the other beds?

A Yes, sir.

MR. PEACOCK: Could you show
the rest of us where it approximately was on that
picture?

A Right at the front on this side.

Q Alright. On the night of July 17th, there was a
bit of a commotion started in the West Wing, is
that correct?

A Yes, sir.

Q What happened?

A What happened?

Q Yes.

A Well, it all started when the radio was turned off
early and a few people started yelling to have the
radio turned back on and it wasn't immediately.
Therefore, this caused banging to start, banging
and yelling started and finally the radio came back
on and the banging and yelling proceeded. While this
carried on the radio went off and on. I don't know

what was happening about it. Anyways, the radio did come on again finally and it was on a little later than it should have been because it was turned off early, so I guess they were making up for the time it was off. The noise proceeded and then the lights came on. And this was strange because they usually stay off at 10 o'clock. So everyone yelled for the lights to go off again and they did so. Now, this continued for a few minutes. One of the head guards, one of the chief guards in the Institution come in.

Q Who was that?

A Mr. Coljee.

Q Was the yelling and banging of lockers still going on?

A When he came in it stopped.

Q I see. What happened?

A He walked up and down the range and come back to the front, very near my bed and the yelling started again as he was up at the front of the Wing. And he stood there for a while. He left the Wing. The banging started again and the yelling. And then a group of guards proceeded to come in.

Q How long, can you tell me, what period of time lapsed when between the yelling first started and this group of guards arriving? Are you able to tell me?

A Approximately 20 minutes.

THE COMMISSIONER:

How long?

A About 20 minutes I would say.

THE COMMISSIONER:

Thank you.

Q MR. PEACOCK:

When this group of guards

came in, what did you observe?

A They all walked in. They walked down to my side of the wing, the side I was on. I seen them walking down and take some people out of their beds, four of the fellows in the wing.

Q Do you know who the four fellows were?

A Yes.

Q Who?

A Watson, I don't know his first name. Winters, Gary Spooner and Sims.

Q Did you see the guards go down to their beds?

A Yes.

Q Did you observe these gentlemen getting out of bed?

A No, not really I didn't.

Q Did you see any of the guards strike any of these four people as they were getting them out of bed?

A No.

Q What happened then?

A What happened. I seen -- well, I seen one of the inmates being pulled out of their beds from where I was. I was laying in bed myself and they took the four inmates. They brought them up the wing and they took them out.

Q Did you see while they were bringing them up the wing towards the gate, did you see any of the guards strike

any of the inmates?

A Going out?

Q Coming up to the front?

A Yes, I did.

Q What did you see?

A I see one inmate get slapped. I can't say who it was and who did it but I did see the slap. That's when they come right in front of my bed, just two beds away from me.

Q What was he slapped with?

A A hand.

Q And what part of him was slapped?

A Behind the head.

Q And it was a guard who slapped him?

A Oh --

Q Or do you know that?

A Well, I can say that pretty well because -- yes.

Q You don't know who it was or who got hit?

A No, sir.

Q Did you hear the guard say anything or anybody say anything at the time they walked by your bed and the slap occurred?

A Didn't say a word.

Q Were the guards saying anything to the fellows to get them moving or anything as they came by you?

A As they came by me, no. Pushed them once, the other fellow.

Pushing them along?

A Yes.

When this one inmate got hit, it is clear it was with a hand, was it?

A Yes, sir.

Q When they got to the door did you see anything occur in the hall outside?

A No, I didn't. That is impossible to see.

Q I see. So once they went through the gate, that was the last you saw of the four of them and the guards, is that correct?

A Yes, it was.

Q And aside from this one fellow getting slapped on the back of the head with a hand, did you observe any of the other inmates hit that night by guards?

A No, I didn't.

Q When they got into the hall outside of your view, did you hear any noise out there?

A Yes, I did.

Q What did you hear?

A I heard some of the fellows screaming.

Q Did you hear -- can you recall what they were saying?

A No. Just "ow" you know, very loudly. You could hear them.

Q And I gather that after these four were let out, the banging of lockers and the yelling ceased?

A Yes, it did.

Q It didn't start again that night?

A No.

Q Were you charged with anything as a result of this night?

A No, I wasn't.

Q Are you able to tell us why this thing got started?

A No, not really I am not.

Q Had you seen anything of this nature or this magnitude of yelling and hollering after lights out before?

A Yes, I have.

Q Had you seen it last as long as that?

A Not as long as that, no.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

CROSS-EXAMINATION BY MR. STILWELL:

Q In your opinion, was this whole incident primarily the work of a handful of inmates?

A Of a handful, basically I would have to say that, yes.

Q And in your opinion also would you think that if inmates raised that kind of hell in the wing that they should expect there to be some kind of action taken by the guards that might involve a little violence?

A I would expect it.

CROSS-EXAMINATION BY MR. SCOTT:

Q You stated, Mr. Ramchuk, that you would expect a little violence. I take it this is a result of your previous experience in gaol, is that correct?*

A Yes, sir.

Q Now, this is not your first term in gaol, is it?

A No, it isn't.

Q You have been in gaol I understand on two other occasions?

A Yes.

Q Therefore, you had an opportunity to experience incarceration I understand since approximately 1962, is that right?

A Yes, sir.

Q Now, when you say that an inmate should expect a little violence when this type of incident takes place, had you ever seen violence on other occasions?

A Yes, I have.

Q Now, do you think that physical abuse of the inmates was necessary that night to subdue them?

A No.

Q The yelling that you heard out in the hallway, I believe you used the word "ow". I take it from that, that the yelling that you heard was consistent with people that were under some form of pain?

A Yes, sir.

Q Did you form the opinion in your own mind that somebody was being struck or pain was being inflicted upon some person at that time?

A Yes, I did.

Q Did you see any of these guards in possession, in their hands, of any weapons of any nature, billy clubs, anything of that nature?

A Yes, billy clubs. A gun of some sort. I am not sure. I think it was a tear gas gun as they say.

Did you want to show the witness Exhibit 36 I believe it is.

THE CLERK: This type?

A Yes, sir.

MR. SCOTT: And could you show him the billy clubs that we have, please?

THE CLERK: Exhibit 38.

A Yes.

MR. SCOTT: Now, are those the type of billy clubs that you saw that night?

A Yes, sir.

Now, the billy clubs that you have seen in the Institution, have you ever seen a billy club that is a flexible one? One that would be say rubberized or something of that nature, it bends. Have you ever seen any type of billy club other than those two?

A The bendable type, yes.

Did you see the bendable type on the evening of this incident?

A I can't really say that I remember any.

I see. But you definitely did see some form of billy club?

A Yes, I seen them carry it.

All right. Now, just to confirm this one point. When you say that people, inmates should expect violence, this is the type of experience you have had in the past in gaol, isn't that correct?

A Yes, sir.

The lights went on and off on how many occasions?

Oh, about two or three.

Now, you have seen I take it or from your statements today, you have seen incidents somewhat like this before, is that correct?

A Yes, I have.

Q In your opinion, if the lights had been left off and the radio had been left off and nothing had been done, would this incident have gotten out of hand or would it have subsided?

A It would have subsided as it usually does.

Q I see. When the ruckus began at the very beginning, did you think that there was anything unusual or did it appear to you that it was different than any of the other times?

A No, sir.

MR. SCOTT: Thank you. That is all I have.

CROSS-EXAMINATION BY MR. MACDONALD:

Q You say that you have been in commotions like this before, is that right?

A Yes, sir.

Q How have these commotions been handled on prior occasions?

A They usually just cease on their own.

Q Under what circumstances have you seen violence used?

A Under what circumstances?

Q Yes. You said you had seen violence before in prison, haven't you?

A Yes. I have been taken down to the hall and I have had fights with guards.

Did you cause those fights?

A No, sir.

Q Was violence really a necessary part of this whole system?

A No, it isn't. I don't think so.

Q What was Dewar's reaction to this? Did you see him? Were you close enough to the front to see his reaction when this whole commotion started?

A Yes, I was.

Q And what was his reaction?

A What was his reaction?

Q Did he treat it as a joke or was he yelling back at the prisoners?

A Yes, he treated it as a joke, he did.

Q Did he make comments to the prisoners?

A Yes, he did.

Q Do you recall any of those comments?

A He said "Go fuck yourselves."

Q Did he say that on more than one occasion?

A He said it, the one time that I heard it because I laughed at him when he said it.

Q Did you see Dewar and Lynch walk down the ring from one end to the other?

A Dewar and Lynch, I don't remember if it was them but I did see Mr. Coljee walk up and down the range. I did see Mr. Dewar and I am not sure who was with him, go up and down, yes.

Q And was this after the lights had gone on and off a couple

of times?

A Yes.

Q And the yelling and screaming and banging had got reasonably loud at this point, had it?

A No, it stopped when they walked down.

Q But prior to that, had it been loud?

A Yes.

Q Were they armed when they walked down that range?

A No.

Q Did any inmate make any sort of hostile move towards them?

A No, sir.

Q Did anybody even get out of bed when they were walking down that range?

A No.

Q You say Coljee was standing close to your bed when the abuse was being directed towards him?

A Yes.

Q Did he say anything to the inmates?

A No, he shook his head. He didn't say anything.

Q Just what, shook his head did you say?

A Yes.

Q And walked out?

A No, he walked up and down the range.

Q And this --

A Somebody said to him "Cross this line Mr. Coljee and it will be the last line you cross." So he got up and he walked down the range and he looked at each bed. And as he walked

there, everything stopped. And he come back. That was --
he left.

Q Are you saying he walked down there immediately after
hearing that?

A Yes.

Q And nobody made any sort of movement towards him?

A No, sir.

Q Have you ever been involved in a prison riot or anything
like that?

A Yes, I have.

Q Where was that?

A Prince Albert .

Q How did this compare to that?

A Much different, much more violent.

Q Did you consider this a riot situation?

A No, sir.

Q And you have seen this kind of thing happen before and it
always died down on its own, is that right?

A It happens quite a few times.

Q In your opinion was there any need to bring weapons of
any kind into that dorm that night?

A Definitely not.

MR. MACDONALD:

Thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, did you say when Mr. Coljee was in the West Wing in
himself that someone said "Cross that line and that is the
last one you will ever cross" or something to that effect?

A Yes.

Q And right after that, the noise died down and essentially stopped?

A Yes, it did.

Q Was that all of a sudden because things got pretty tense after that?

A Oh, no, it didn't. Not right after the statement was made. It was because Mr. Coljee started walking down the range and I guess the people making noise didn't want him to see them so they just quieted down. The noise didn't stop until he started walking down the range.

Q And that is when he supposedly crossed the line, isn't it?

A I imagine so, yes.

Q Sir, you talked a fair amount about violence and so on and you have also indicated that you could hear people yelling things like "ow" quite loudly. Did you hear any blows being struck?

A Yes, I heard smacks or slaps.

Q Slaps?

A Yes, that type of a sound.

Q You couldn't see anything?

A No, sir.

Q As far as violence is concerned, sir, would it be a fair statement to say that violence among the inmates themselves is much more prevalent than say violence by the guards directed towards the inmates?

A No, sir.

Q It's not?

A No, it is not.

Q Why then sir are some of the sexual offenders are regarded as squealers and so on segregated?

A Why are they segregated?

Q Yes.

A Well, the only way I can answer that sir is that :
been in the West Wing approximately five and a half
and I have seen two fights in the West Wing and that
between inmates. And that is because I think that
is 96 -- well, it holds up to 96 inmates. When
96 men who are locked up and I guess they are not
basically they are not arguments do occur.

Q Sir, is it not true that say many of the sexual
and what no, deviants, if they weren't put away in
kind of segregation that the inmates would clean up
so to speak?

A I really can't say.

Q You can't say?

A No. As a matter of fact that isn't right because
a few that are in the population that I haven't
happen to.

Q Sir, I believe that you have indicated that
happened as a result of a few inmates, is that

A Yes.

Q And would it be fair to say that they/sort
the thing or egging it on from time to time

A Not ring leaders by far.

Q Not in the sense that it was organized, but they would be egging the thing on at times?

A No, because basically, this is how it is to me. I mean there was a group, a small group involved in this thing and when it got involved they all worked together in it. So there wasn't really anybody edging anybody on because they were all together when they would make the noise.

Q Now, was one way to get rid of that noise and commotion to remove those offenders?

A Yes, to remove them all would stop it.

Q And that is what was done?

A Right.

MR. NEUBIN:

No further questions.

RE-DIRECT-EXAMINATION BY MR. PEACOCK:

Q There's ^{been} /one or two questions asked of / ^{your} opinion, Mr. Ramchuk. You have indicated you thought that violence wasn't necessary in an Institution. I wonder if you would go so far as to say that you could run a correctional institution such as the Calgary Correctional Institution without the guards using force from time to time?

A You definitely could.

Q And if a guard asks an inmate to go to the hole and the inmate refuses, what recourse does the guard have? I am just using that as an example.

A To take him down, I imagine.

Q And I would expect if he didn't want to go, the guard would

have to use force?

A If that was what was left, I imagine he would.

Q Well, I am just wondering if you say that force isn't necessary in an Institution by guards, I am just wondering what you can see as an alternative if an inmate in fact refused to do something. I am just using that as an example.

A If he refused to go where he wanted him to go?

Q Yes.

A Then I imagine he would ask him why he was refusing or what he wanted.

Q And if the fellow said "I don't want to go to the hole" and the guard said "You are charged with going to the hole" would you expect if the fellow then wouldn't go to the hole, the guard would be obliged to use some force to get him there?

A Would I expect it?

Q Yes.

A Yes, I would.

MR. PEACOCK: Those are all the questions I have, thank you.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Ramchuk, how old are you, sir?

A 28.

Q Now, I understood your answer to a question by Mr. Stilwell that in view of what was taking place in the West Wing at that time, that you would have expected the guards to come in and

use force because of your previous experience in other institutions, is that correct?

A Yes, I --

Q Did I understand you? I am not trying to put words in your mouth?

A Yes, that is true.

Q Would that be because of your experience in Prince Albert?

A Yes.

Q Would I be correct in assuming sir that if a situation like this was developing in Prince Albert that it would be dealt with very summarily and very harshly?

A It would if it didn't stop.

Q Yes, and that is why you thought, based on your experience in Prince Albert, what did happen was going to happen, is that correct?

A Not really sir, no. Because if it was just a banging noise in Prince Albert, the Warden would have probably come in and spoke to the men and asked them what was wrong.

Q Was there more than banging going on on this occasion?

A The Prince Albert occasion?

Q No, no, here.

A Oh, no, there wasn't.

Q Well then, I don't want to confuse the issue, but I just wonder then why you said in answer to Mr. Stilwell that in view of what was going on you would have expected the action of the guards that did take place.

A Why did I say that?

Q Yes.

A Because basically myself, I know if I was sitting there banging on my locker and a guard came in -- well, if I was banging on the locker I would be doing it for a reason, right. Some sort of objection to an Institution so I think that if guards came in, they are not going to stand there and talk to me about, while I am banging.

THE COMMISSIONER: I see. All right.

Thank you.

MR. PEACOCK: That's all. Thank you,

Mr. Ramchuk.

(Witness retires)

MR. PEACOCK: Call William Kemp,
please.

WILLIAM AUSTIN KEMP, having
first been called and duly sworn, direct examination by
Mr. Peacock, testified as follows:

Q Mr. Kemp, you presently reside at the Calgary Correctional
Institution?

A Yes.

Q And how long have you been there?

A Six months.

Q And what is your sentence?

A It's a parole violation, one year.

Q I see. On July 17th, 1973 were you housed in the West Block?

A Yes, I was.

Q What bed number were you?

A One.

Q Where was that?

A Right at the front of the dorm.

Q Where were you in relation to a gentleman by the name of Ramchuk?

A Right across from him.

Q The aisle would separate your beds?

A Right.

Q The feet of your beds would face each other?

A Yes.

Q On July 17th, what happened about 10:00 o'clock when the lights went out?

A Well, a number of inmates started banging on their lockers and causing a little bit of a ruckus so the lights went back on.

Q What happened then?

A Mr. Coljee entered the dorm and stood at the head of the dorm and a number of insults were shouted at him.

Q When Mr. Coljee came in, after the lights went on, did the yelling and what not continue?

A After what?

Q After the lights went on?

A A bit, yeah.

Q Did they then go back off before Mr. Coljee came in?

A Not after he came in, no.

Q So Mr. Coljee came in and there was still some yelling when he came in, was there?

A Yes, there was a bunch of insults yelled to him, right.

Q What happened then?

A Well, he took a walk around the dorm and wrote down a bunch of bed numbers. And then he went and stood at the head of the dorm again.

Q Did the yelling continue?

A Yeah, it continued after that. And then he went into the office. I guess he told them to phone down for the rest of the guards.

Q What happened then?

A Well, 14 guards entered the wing and four inmates were grabbed from their beds and escorted out of the dorm. One was handcuffed.

Q Did you know the fellow who was handcuffed?

A No.

Q Did you see how many fellows were taken out?

A Four.

Q Did you see the guards approach their beds specifically?

A Yes.

Q What did you observe when they were getting them out of bed?

A Well, one inmate, I can't say which one it was, it was pretty far down the dorm, was handcuffed and pulled bodily out of bed, and then they were just all escorted out.

THE COMMISSIONER:

All what?

A Escorted out.

Q MR. PELCOCK:

During the time they were getting out of bed, did you see any of the inmates struck

by any of the guards?

A No, I can't say that I did.

Q When they brought them past you to the gate, did you see any of the inmates striking the guards or any guards striking the inmates?

A No, because they were in a group.

Q Were they being -- were they just walking or were they being prodded along or what did you observe?

A Well, they were being prodded but not -- I saw the billy sticks but they weren't using them at the time.

Q Did you see what happened when they got to the front?

Was there any hitting of inmates by guards at that time?

A Well, by the time they got to my bed there, there was about five or six guards standing in front of me so I didn't see anything.

Q Did they take them out?

A Yeah.

Q Did you hear anything after they took them out into the hall?

A Yes, I heard one smack and one yell.

Q Did you hear anything else?

A No.

Q After they removed these four fellows did the yelling and banging of lockers continue?

A No.

Q It ceased?

A Yes.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

MR. STILWELL: No questions.

MR. MACDONALD: No questions.

MR. SCOTT: I have no questions.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions.

THE COMMISSIONER: Thank you very much.

MR. PEACOCK: Thank you, Mr. Kemp.

(Witness retires)

MR. PEACOCK: Call Mr. Nurse, please.

BRIAN DALE NURSE, having first been called and duly sworn, direct examination by Mr. Peacock, testified as follows:

Q Mr. Nurse, how old are you?

A Seventeen.

Q You are an inmate of Calgary Correctional Institute?

A Yes.

Q How long have you been in there?

A About eight months.

Q What was the charge for which you were sentenced?

A Fraud and B and E.

Q And what was your sentence?

A Two years less a day.

Q On July 17th, 1973, were you housed in the West Wing of the Institute?

A Yes.

Q What bed number were you in?

A Two.

Q You would have been right next to a fellow by the name of Kemp?

A Yes.

Q Tell us what happened that night, will you?

A Well, they -- well, they turned the lights and the radio off. They turned it off early and a bunch of guys started yelling and screaming, "Turn it back on.". And then a guard that was on duty started laughing, and you know, switching lights on and off and the radio on and off. And then Mr. Dewar and Mr. Coljee came in and there were profanities yelled at them and then after that, they, you know, they told everybody to be quiet because he didn't get off on that too much, he didn't like it too much, things that were being said. So they went out again. And then they came back five minutes later. There was about, I don't know, I would say about 15 guards and all of them had billy clubs and Mr. Cater had a tear gas gun.

Q Before these guards came back, did the yelling continue with respect to the lights?

A Yeah.

Q How long do you expect that this yelling went on?

A Oh, maybe five minutes, ten minutes.

Q And then the guards appeared with these weapons?

A Yes.

Q What happened?

A Well, they came in and they rushed down, about halfway down the wing and they just grabbed four guys out of bed.

Q Did you hear anyone yell anything at the guards when they came in?

A No.

Q You didn't hear any one of the inmates yell a threat to them, eh?

A No. Well, there was a threat, you know. It wasn't really a threat. It was just a joke. That was way, that was before the guards even come in.

Q What was said?

A Well, one man said, "If you cross that line you are dead.".

Q And do you know who that man was that said that?

A No.

Q You just heard it?

A Yeah.

Q What happened then?

A Well, when they came in they rushed down to the four beds and they just grabbed the inmates out of the beds and put handcuffs on one man and pushed him down the tier, took him out.

Q Did you see who the four were that they took out?

A Yes, there was Watson, Winters, Sims, and I don't know the other one's name.

Q Spooner. Did you observe during the yelling that these fellows were yelling and banging on their lockers too?

A Well, I mean a fair portion of the inmates were, yes.

Q Were you yelling and banging on your locker?

A No.

Q You were pretty close to the front?

A Yeah.

Q Now, when the guards went down to get the inmates, you say you saw one of them handcuffed and pushed up to the front?

A Yes.

Q Do you know who that was?

A Watson.

Q And did you see any of the other inmates getting out of bed?

A Well, they weren't -- they didn't get out of bed. They were pulled out of bed.

Q Did you see any of them struck when they were being pulled out of bed?

A No.

Q Were you able to see the actions of the guards as they were pulling them out of bed?

A Well, not at that time because then Mr. Schlegel came over to my bed and he had a billy club in his hand. And he told me that I had something in my bed that I shouldn't have, you know. I told him I didn't, and he just told me if I did then I should get rid of it in the morning.

Q Do you know what he was referring to?

A Well, I figured it was either dope or a knife or --

Q Did you have any dope or a knife in your bed?

A No.

Q Did you see Mr. Schlegel hit anyone when they were getting them out of bed?

A No. Like I don't really remember seeing Mr. Schlegel down there because I was mostly watching Mr. Cater with the tear gas gun because he was poking it right in Ramchuk's knees, you know.

Q He was pretty close to Ramchuk?

A Yeah, pretty close.

Q Did they get all four of these gentlemen up to the front of the wing at the same time?

A Well, one behind the other you know.

Q What happened when they got to the door, anything?

A Oh, I couldn't see the door.

Q Could you see them from where they brought them from the beds up to the front, did you see any of the inmates struck by any of the guards?

A Well, they were pushed and kicked, you know. I didn't see them hit them.

Q Did you hear anything after they got out into the hall?

A I heard yelling and screaming.

Q Do you remember what was said?

A No.

Q When they got these fellows out of the wing, did the yelling and the banging of lockers stop?

A Well, yeah.

MR. PEACOCK:

Those are all the questions

I have. Answer other counsel, please.

MR. MACDONALD:

No questions.

CROSS-EXAMINATION BY MR. SCOTT:

Q Did you hear Mr. Cater say that he had the gas gun and told everyone that the first person that moved he was going to let the thing go?

A Yes.

Q The yelling and the screaming that you heard out in the hallway, was it consistent with people being hurt?

A Yeah. Well, that is what it sounded like.

Q That is what it sounded like to you, did it?

A Yes.

MR. MEURIN:

No questions, sir.

THE COMMISSIONER:

Thank you very much, Mr.

Nurse.

MR. PEACOCK:

Thank you, Mr. Nurse.

We will have you back later.

(Witness retires)

MR. PEACOCK:

Commissioner, that is the

evidence that we will present this afternoon. I would like to adjourn until 10:00 o'clock tomorrow morning.

THE COMMISSIONER:

10:00 o'clock tomorrow

morning.

(Hearing adjourned)

